Instructions for Completing the Title IV-E Foster Care Eligibility Review Instrument (Review Instrument)

A. CASE FINDINGS

Complete this section after completing the entire instrument (check all applicable boxes).

Case Type:	Non-Error Case ☐	Error Case ☐
For either case type, case includes:	Underpayments ☐	Ineligible Payments ☐

B. GENERAL INSTRUCTIONS

Complete this TITLE IV-E FOSTER CARE ELIGIBILITY REVIEW INSTRUMENT (Review Instrument) for each foster care episode in the 6-month period under review (PUR). Use pencil and write legibly. Information in this Review Instrument is *confidential* and must not be disclosed for any purposes outside the Title IV-E Foster Care Eligibility Review (IV-E Review).

Each question must be answered. Read the INSTRUCTIONS FOR COMPLETING THE TITLE IV-E FOSTER CARE ELIGIBILITY REVIEW INSTRUMENT for an explanation of each question and how to answer it. The Review Instrument may be annotated with additional information regarding eligibility, as necessary. ***Response boxes with an asterisk (*) and outlined in bold indicate potential case errors and/or other improper payments.***

C. GENERAL CASE INFORMATION

1. **Review PUR**: Record the beginning and ending dates (month/day/year) of the 6-month AFCARS period that is the focus of this IV-E Review.
2. **State Abbreviation and Random Sample Selection number**: Record the two-letter postal code of the state that is being reviewed; then enter the sample number of the case that is being reviewed (typically 1–80). Or, if the case is drawn from the oversample, enter OS and the number of the oversample case. For example, if this is the first oversample case, enter state postal code and OS-1.
3. **Case ID:** Record the case identification number that the title IV-E agency assigns to the child.
4. **County or Local office:** Record the name of the county or local office where the child's case is based.
5. **Review Date:** Record the date (month/day/year) that you are reviewing the case.
6. **Reviewed by:** Write your name. If you are reviewing the case with another reviewer, write both of your names.

D. CHILD INFORMATION

7. **Child's Name:** Record the first and last name of the child whose sample case you are reviewing. Particularly if a case file includes information for a child and siblings, use the payment and placement histories to ensure that you are reviewing eligibility requirements regarding the child who is in the sample.
8. **Child's Date of Birth:** Record the child's birthday (month/day/year). Note in the comments where you found the child's birthday (e.g., birth certificate or equivalent birth record).

9. **Child's Age (in years) on the First day of the PUR:** Record the child's age as of the first day of the PUR. This will either be the child's age as of April 1 or October 1. If the child is under 12 months old on the first day of the PUR, enter 0 (zero) as the child's age.

ADDITIONAL INSTRUCTIONS

- Read each question's instructions before answering it and recording the answer. Do not leave any question blank unless instructed to do so.
- Indicate "***YES***," "***NO,***" or ***"N/A"*** as appropriate for the question. "***YES***" and "***NO***" responses with an asterisk (*) and outlined in bold cell border are potential case errors or improper payments (ineligible payments or underpayments).
- Verify that the title IV-E agency documented each eligibility factor and, where applicable, record in "Comments" case documentation supporting your response to the question.
- Record additional placements during the PUR in Appendix 1 of the Review Instrument, "Licensing/Safety Checklist for Multiple Placements."
- Record data for improper payments in Appendix 2 of the Review Instrument, "Improper Payment Chart."
- Refer to the "Title IV-E Foster Care Eligibility Review Guide" for additional guidance on review policy and procedures.
- Statutory citations refer to the applicable section of the Social Security Act (the Act).
- Commentaries are used to clarify and explain issues, concepts, or challenges and to present concrete examples of typical situations. Examples are not to be read more broadly than the expressed facts presented and may not be applied to factual situations different from those specifically described.

E. REMOVAL DATE

[Statutory Citation: § 472(a) of the Social Security Act (the Act)]

10. Date child is removed from home: Record the date (month/day/year) that the child is physically removed from home. Or, if constructively removed, record the date that the child is constructively removed. The constructive removal date is the date the court sanctioned the judicial removal from home, or the date that the parent or legal guardian and the title IV-E agency signed the voluntary placement agreement.

A "constructive removal" occurs when a child is with an interim caregiver (related or unrelated) on the date that the court finds it is contrary to the welfare for that child to remain in the home of a parent or another individual. Similarly, a constructive removal occurs when a parent or legal guardian enters into a voluntary placement agreement with the title IV-E agency. In short, in a constructive removal, the child's removal takes place on paper because an actual physical removal from the removal home at the time of the court order or voluntary placement agreement is not possible because the child is with an interim caregiver.

There are some acceptable circumstances in which the title IV-E agency does not physically remove the child from the parent or other specified relative immediately after the judge makes a contrary to the welfare finding against the parent or specified relative or after the voluntary placement agreement is signed. For example, a child who is judicially removed from home while living with a parent in a licensed, residential family-based treatment facility for substance abuse does not need to be physically removed from the child's parent. Regardless of the reason for the lack of an immediate physical removal, reviewers should record the date that the judge made the contrary to the welfare determination, or the date that the voluntary placement agreement was signed.

Example: The child was hospitalized on 03-06-2018 due to serious injuries and had to stay in the hospital until 04-12-2018. Following a call from the attending physician, an investigation was conducted, and the child was placed in the agency's legal custody on 03-11-2018. The judge on that day entered a finding that removal from the parent and placement in foster care was necessary to protect the child from further parental harm. The child was placed in a foster home on 04-12-2018. The date the child is removed from home is 03-11-2018, which is the date of the judicial authorization for removal. The child is considered constructively removed because the child was hospitalized at the time of the judicial order authorizing removal, therefore a physical removal from the parental home of removal was not possible.

F. JUDICIAL REMOVALS

[Statutory Citation: § 472(a)(2) of the Act; Regulatory Citations: 45 CFR §§ 1356.21(b), (c), & (d)]

The child must be removed from home in accordance with the federal statutory and regulatory requirements at § 472(a)(2)(A) of the Act, 45 CFR § 1355.20, 45 CFR § 1356.21 and 45 CFR § 1356.22. As such, the child is not eligible for title IV-E foster care maintenance payments if the child has not been removed in accordance with either a judicial determination of contrary to the welfare or a voluntary placement agreement.

11. Is the child's removal the result of a court order?

- Mark *YES* if a court sanctioned the child's removal from home by a court order.
- Mark *NO* if a court did not sanction the child's removal from home.

For title IV-E eligibility purposes, the judicial removal must be explicitly documented in a valid court order or an official court transcript. A court order is considered valid if it is valid pursuant to the state or title IV-E agency's requirements for valid court orders.

12. If Question 11 is *YES*, what is the date of the court order removing the child from home?

- Mark *N/A* if the child is not removed from home via court order.
- If the child is removed from home pursuant to a court order, enter the date (month/day/year) of the court order (or court transcript) that sanctions the child's removal from home.

The date the court ruling is rendered typically is used to establish time frames for judicial determinations related to a child's eligibility for title IV-E foster care. However, if the mandates governing court procedures with regard to the title IV-E agency specify that a court decision becomes effective based on a different occurrence, such as the date the judge signs the court order, then that mandate is followed for determining the date a finding is made.

General Instructions, Questions 12(a) to 13(c): Judicial Determinations

For title IV-E eligibility purposes, when a child is removed from home via a court order, the court order must include judicial determinations: (1) to the effect that it is contrary to the child's welfare to remain in the home, and (2) that the title IV-E agency has made reasonable efforts to prevent the child's removal from home (or that reasonable efforts need not be made). The judicial determinations do not need to include the exact terms "reasonable efforts" or "contrary to the welfare," but reviewers may not infer findings based on the facts included in the court order. There must be a statement in the court order that explicitly verifies that the required type of judicial determination has been made. It is acceptable, for example, for a judge to find that it is in the best interests of the child to be removed from home (satisfying the contrary to the welfare requirement), or for a judge to find that the title IV-E agency took all possible action to prevent the child from being removed from home (satisfying the reasonable efforts requirement).

Documentation Requirements. These judicial determinations must be documented in valid court orders. If the title IV-E agency does not provide a valid court order that contains the requisite judicial determinations, the only alternative that can be used to satisfy the requirements is an official transcript of the court proceeding pertaining to the removal. Affidavits, *nunc pro tunc* court orders, and other similar-purpose documents are not acceptable documentation to support a judicial finding, except as provided in § 479B of the Act for a limited period for a tribal title IV-E agency.

When a title IV-E agency relies on the transcript of a court proceeding instead of a written court order, there must be a statement in the transcript that explicitly verifies that the required type of judicial determination has been made. An acceptable transcript is a true reproduction of the court's proceedings, and as such can include an audio recording of the proceedings, a written reproduction that derives directly from an audio recording of the proceedings, or a written reproduction that was established during the proceedings. A transcription of the court proceedings by the title IV-E agency is not acceptable.

Judicial determinations made pursuant to 45 CFR § 1356.21(d) must be made on a case-by-case basis; child-specific (e.g., naming the child who is the subject of the order); explicitly stated in the court order (e.g., finding is definitive, reviewers may not infer the court's meaning) and in conformity with federal regulatory time frames. The basis of the court's finding needs not be included in the court order. However, including in the court order the facts upon which the "contrary to the welfare" and "reasonable efforts" determinations are based significantly improves the quality of the court order.

Examples of unacceptable court findings that require the Children's Bureau (CB) to review a court transcript include:

- Affidavits that attest that the judicial determination was rendered sufficiently and/or timely in the absence of a sufficient court order;
- Judicial determinations that reference a statute, but do not have the requisite "contrary to the welfare" or "reasonable efforts" findings;
- *Nunc pro tunc* judicial findings that change the substance of a prior judicial determination; change the date that a hearing occurred or finding was made; or include a judicial determination not previously made;
- Inexplicit or non-child-specific judicial findings; and
- Judicial findings that restrict the "reasonable efforts" and "contrary to the welfare" findings to reasons of "federal funding" purposes.

12(a). Is this court order the first order that sanctions the child's removal?

- Mark *N/A* if the child is not removed via court order.
- Mark *YES* if the child is removed via court order and the court order recorded in Question 12 is the first court order that sanctions the child's removal from the specified relative from whom the child is physically removed or from whom the child is constructively removed.
- Mark *NO* if this is not the first court order sanctioning the physical or constructive removal.

The judicial determination regarding contrary to the welfare must be made in the first court ruling (as evidenced by a court order or court transcript) that substantively addresses, even temporarily, the child's removal from the home. (A court hearing is not required.) The first court ruling applies to the judicial order stemming from the first court proceeding that decides whether the child should be removed for purposes of foster care. This requirement applies even when the order is an emergency order, a weekend order, or a "pick-up" order. State law or policy will inform how a verbal court authorization to remove a child from home is treated for title IV-E eligibility determinations. If the title IV-E agency does not document that the court made the required contrary to the welfare determination, the child is not eligible for title IV-E and federal reimbursement of foster care maintenance payments is unallowable for the child for the duration of the foster care episode.

Example: The title IV-E agency petitions the court to remove a child from home before physically removing the child. The parties go to court, but one of the parties requests a continuance before the parties discuss the case. The court grants the continuance. The next day, the parties come back to court and discuss whether the child should be removed from home. The court order that stems from the hearing at the second court appearance is the relevant order for determining whether the contrary to the welfare requirement has been met.

Example: A state law requires that a title IV-E agency get verbal authorization from a judge before it physically removes a child from home. The agency calls the judge at 3 AM on a Friday morning, and the judge agrees that the agency may remove the child immediately from the parents. On Monday, the parents and the agency go to court to discuss whether the child should remain out of the home. After hearing the facts of the case, the judge enters a finding pertaining to the child's removal over the weekend and generates a court order including that finding. For title IV-E eligibility purposes, the court order that memorializes the first court proceeding sanctioning the child's removal from home pursuant to the verbal authorization is considered the first court order that must document the judicial finding of contrary to the welfare. The first court proceeding in this case is the one held on that Monday.

12(b). Does this court order have a finding of contrary to the welfare?

- Mark *N/A* if the child is not removed via a court order.
- Mark *YES* if the court order (or official court transcript) in Question 12 contains a finding to the effect that it is contrary to the child's welfare to remain in the home.
- Mark *NO* if the court order (or court transcript) does not contain such a finding.

For title IV-E purposes, the court-ordered removal must include a judicial determination to the effect that continuation in the home from which the child is physically or constructively removed would be contrary to the child's welfare, or that foster care placement is in the child's best interests [see 45 CFR § 1356.21(c)].

12(c). Is the judicial requirement met regarding contrary to the welfare?

- Mark *N/A* if the child is not removed via court order.
- Otherwise, review answers to Questions 12(a) and 12(b).
- Mark *YES* if the title IV-E agency has satisfied the contrary to the welfare requirement [Questions 12(a) and 12(b) are marked *YES*].
- Mark *NO* if the agency has not satisfied the requirement [Question 12(a) or 12(b) is marked NO].

12(d). Are title IV-E funds claimed for a period before the month the contrary to the welfare requirement is met?

- Mark *N/A* if the child is not removed via court order.
- Otherwise, review the child's payment history.
- Mark *YES* if the title IV-E agency claimed title IV-E foster care maintenance payments for a period before the month in which the agency met the contrary to the welfare requirement.
- Mark *NO* if the agency did not claim title IV-E foster care maintenance payments for a period before the month in which it met the contrary to the welfare requirement.

When payments may begin and when payments must end. If the title IV-E agency claims title IV-E foster care maintenance payments without securing the required contrary to the welfare judicial determination in the first court order that sanctions the child's removal from home, title IV-E eligibility for the child is not met for the entire foster care episode. The case is in error, and the title IV-E foster care maintenance payments are disallowed.

A title IV-E agency may claim title IV-E foster care maintenance payments from the first day of the child's placement in the month that all requirements have been met (CB Child Welfare Policy Manual [CWPM] at 8.3A.15, Question 1). However, if the agency claims title IV-E foster care maintenance payments for a period prior to the month the eligibility requirement is met and the ineligible period is in the PUR, the child's sample case is in error with ineligible payments that are disallowed. If the ineligible period is outside the PUR, the sample case is a non-error case with ineligible payments that are disallowed.

Record ineligible period(s) on the Improper Payment Chart (Appendix 2 of the Review Instrument).

13. If Question 11 is *YES*, is there a judicial finding regarding reasonable efforts to prevent removal?

- Mark *N/A* if the child is not removed pursuant to a court order.
- Mark *YES* if the child is removed via court order and the court makes a judicial determination that the title IV-E agency has made reasonable efforts to prevent the child's removal from home (or that reasonable efforts are not necessary to prevent the removal).
- Mark *NO* if the court does not make such a finding.

In order for the child to be eligible for title IV-E, the title IV-E agency must secure a judicial determination to the effect that the agency made reasonable efforts, or the agency was not required to make efforts, to prevent the child from being removed from home.

Although specific terminology is not required, the Departmental Appeals Board (DAB) of the U.S. Department of Health and Human Services (HHS) has held that the use of the term "explicit" in the regulations at 45 CFR § 1356.21(d) means that it is not sufficient if the court order merely implies that reasonable efforts are made. Therefore, a listing of the agency's efforts to prevent the child from being removed or the court's adoption of a report that details the agency's efforts absent the court's specific finding about those efforts, does not equate to an explicit judicial determination that the agency's efforts were reasonable. The court order or the court transcript must reflect that the judge has determined whether such efforts were reasonable or were not required (DAB Decision1998).

13(a). Is this judicial finding within 60 days of the child's removal?

- Mark *N/A* if the child is not removed via court order or Question 13 is marked *NO*.
- Mark *YES* at Question 13(a) if the reasonable efforts determination is made within 60 days of the date that the child is physically or constructively removed from home and record the judicial finding date (month/day/year).
- Mark *NO* if the determination is not made within 60 days of the child being physically or constructively removed from home.

For title IV-E eligibility purposes, this judicial finding must be made no later than 60 days from the date the child is removed from the home [45 CFR § 1356.21(b)(1)]. The title IV-E agency may obtain this judicial determination earlier than 60 days from the date of removal. However, if the agency does not secure the finding timely, the child is ineligible for title IV-E foster care maintenance payments for the duration of the foster care episode. The "clock" for the 60-day period begins the day after the child is physically removed. If the child is constructively removed, the "clock" begins on the date the court sanctions the removal.

13(b). Is the judicial requirement met regarding reasonable efforts to prevent removal?

- Mark *N/A* if the child is not removed via court order.
- Otherwise, review answers to Questions 13 and 13(a).
- Mark *YES* if the title IV-E agency has satisfied the reasonable efforts to prevent removal requirement (i.e., Questions 13 and 13(a) are marked *YES*).
- Mark *NO* if the agency has not satisfied the requirement, i.e., Question 13 or 13(a) is marked *NO*.

13(c). Are title IV-E funds claimed for a period before the month the reasonable efforts to prevent removal requirement is met?

- Mark *N/A* if the child is not removed via court order.
- Otherwise, review the child's payment history.
- Mark *YES* if the title IV-E agency claimed title IV-E foster care maintenance payments for a period before the month in which the agency secured the reasonable efforts judicial determination.
- Mark *NO* if the agency did not claim title IV-E foster care maintenance payments before the month in which it secured the reasonable efforts judicial determination.

When payments may begin and when payments must end. If the title IV-E agency claims title IV-E foster care maintenance payments without securing the required reasonable efforts judicial determination timely, title IV-E eligibility for the child is not met for the entire foster care episode. The case is in error, and the title IV-E foster care maintenance payments are disallowed.

A title IV-E agency may claim title IV-E foster care maintenance payments from the first day of the child's placement in the month that all removal requirements have been met (CWPM at 8.3A.15, Question 1). However, if the agency claims title IV-E foster care maintenance payments for a period prior to the month the eligibility requirement is met and the ineligible period is in the PUR, the child's sample case is in error with ineligible payments that are disallowed. If the ineligible period is outside the PUR, the sample case is a non-error case with ineligible payments that are disallowed.

Record ineligible period(s) on the Improper Payment Chart (Appendix 2 of the Review Instrument).

Example: A title IV-E agency secures a contrary to the welfare judicial determination against a child's parents on December 16, and the child is removed from home that day under the agency's placement and care responsibility. The agency secures a judicial finding of reasonable efforts to prevent removal on January 4. Claims for title IV-E foster care maintenance payments are allowed for the otherwise eligible child beginning on January 1 because that is the month in which the agency has satisfied both required judicial determinations for the removal. If the agency claims title IV-E foster care maintenance payments for the period of December 16–December 31, the claims will be disallowed. If that period falls during the PUR, the case will be in error with ineligible payments for the claimed dates in that period. If that period does not occur during the PUR, the case will be a non-error case with ineligible payments for the claimed dates in that period.

G. Voluntary Placements

[Statutory Citation: §§ 472(a)(2)(A)(i),(d)–(g) of the Act; Regulatory Citation: 45 CFR § 1356.22]

14. Is the child's removal the result of a voluntary placement agreement?

- Mark *YES* if the child is removed via a voluntary placement agreement.
- Mark *NO* if the child is not removed via a voluntary placement agreement.

§ 472(f) of the Act allows a title IV-E agency to claim title IV-E foster care maintenance payments on behalf of the otherwise eligible child who is removed from the home pursuant to a voluntary placement agreement. A voluntary placement agreement is an out-of-home placement of a minor child where the title IV-E agency and the child's parents or legal guardians agree that the child should be in the care of the title IV-E agency. In order for the child to be eligible for title IV-E, the legal guardian must be a specified relative (as defined by § 406 of the Act as it was in effect in 1996) and the child must be AFDC-eligible based on that specified relative's home. In a removal through a voluntary placement agreement, the court does not authorize the child's removal from the home, nor are the court-ordered judicial determinations of contrary to the welfare and reasonable efforts required for title IV-E eligibility.

Documentation Requirements, Questions 14–15(a). In order to claim title IV-E foster care maintenance payments, the title IV-E agency must furnish the voluntary placement agreement that includes the signatures of the relevant parties, dates of signature and an indication that the parties mutually agree that the child will be in the care of the agency. (Whether the agency has placement and care authority for the child through the voluntary placement agreement is examined later in Section L.)

15. If Question 14 is *YES*, is the voluntary placement agreement signed by the parent or legal guardian and the title IV-E agency representative(s)?

- Mark *N/A* if the child is not removed via voluntary placement agreement.
- Mark *YES* if the voluntary placement agreement is signed by both the parent or legal guardian and the agency. Record the date (month/day/year) that the voluntary placement agreement is signed.
- Mark *NO* if the voluntary placement agreement is not signed by all parties.

For purposes of the IV-E Review, a voluntary placement agreement becomes valid on the date that it is signed by the parent or legal guardian and the title IV-E agency representative. If signings occur on different dates, the voluntary placement agreement becomes valid on the date of the final signature. Electronic signatures are permissible.

15(a). Are title IV-E funds claimed for a period before the month the voluntary placement agreement is signed by the parent or legal guardian and the title IV-E agency?

- Mark *N/A* if the child is not removed via voluntary placement agreement.
- Mark *YES* if the agency claimed title IV-E funds for a period before the month in which the last party signed the voluntary placement agreement.
- Mark *NO* if the agency did not claim title IV-E funds for a period before the month the last party signed the voluntary placement agreement.

When payments may begin and when payments must end. If all required parties did not sign the voluntary placement agreement, title IV-E eligibility for the child is not met for the entire foster care episode. The case is in error, and the title IV-E foster care maintenance payments are disallowed.

The title IV-E agency may claim title IV-E foster care maintenance payments from the first day of the child's placement in the month all title IV-E eligibility criteria are met for the child (CWPM at 8.3A.15, Question 1). However, if the agency claims title IV-E foster care maintenance payments for a period prior to the month the eligibility requirement is met and the ineligible period is in the PUR, the child's sample case is in error with ineligible payments that are disallowed. If the ineligible period is outside the PUR, the sample case is a non-error case with ineligible payments that are disallowed.

Record ineligible period(s) on the Improper Payment Chart (Appendix 2 of the Review Instrument).

Example: The voluntary placement agreement is signed on May 31, and the child is placed in a foster family home on June 1. The title IV-E foster care maintenance payment may begin on June 1 for the otherwise eligible child.

Example: The otherwise eligible child has been in the foster care placement since May 15. The voluntary placement agreement is signed on May 31. The title IV-E agency can claim title IV-E payments back to May 15 for the otherwise eligible child.

16. Is there a judicial determination regarding the child's best interests within 180 days of the date of foster care placement?

- Mark *N/A* if the child is not removed via voluntary placement agreement. Or mark *N/A* if the child is removed via a voluntary placement agreement, the child has been in care fewer than 180 days and no judicial determination has been made before the last day of the PUR. The 180-day period begins with the date the child is physically placed in foster care or the date the voluntary placement agreement is signed if the child is constructively removed.
- Mark *YES* if, within 180 days of the child's placement, the title IV-E agency acquires the judicial determination that it is within the child's best interests to remain in care.
- Record the date (month/day/year) that the judicial determination is made.
- Mark *NO* if the agency does not acquire the required judicial determination within 180 days of the child's placement. Record the date (month/day/year) that the judicial finding is made.

In order for a child to remain eligible for title IV-E foster care maintenance payments when the child has been voluntarily removed, the title IV-E agency must secure a judicial determination within 180 days to the effect that the placement is in the best interests of the child [§ 472(e) of the Act]. The "clock" for the first 180 days of the foster care episode begins on the date the child is physically placed in foster care. If the child is constructively removed, the "clock" for the first 180 days of the foster care episode begins the date the voluntary placement agreement is signed by all necessary parties.

The best interests judicial ruling does not change the nature of the child's removal from voluntary to court-ordered for the foster care episode, the child's eligibility requirements remain tied to the voluntary nature of the child's removal.

Documentation Requirements. The title IV-E agency must provide the court order (or court transcript) that memorializes the court's determination that it is in the best interests of the child to remain in care. This judicial determination, as noted, must be made within the first 180 days of the foster care episode.

16(a). If Question 16 is *NO*, are title IV-E funds claimed for the period of ineligibility?

- Mark *N/A* if the child is not removed via a voluntary placement agreement or Question 16 is *YES*.
- Mark *YES* if the agency claimed title IV-E foster care maintenance payments after the 180th day that the child is placed without securing the required "best interests" determination.
- Mark *NO* if the agency did not claim title IV-E foster care maintenance payments for a period after the 180th day.

When payments may begin and when payments must end. If more than 180 days of the child's placement in foster care have elapsed and there has been no judicial determination of "best interests," the child's title IV-E eligibility for the foster care episode ceases on the 181st day and the child is ineligible for title IV-E foster care maintenance payments for the remainder of the foster care episode. The case will be in error beginning on the 181st day and the associated ineligible payments will be disallowed.

Title IV-E eligibility also ends on the day the voluntary placement agreement is revoked because a revocation ends the agency's legal justification for the child's removal and foster care placement. If the agreement is revoked within 180 days of the agreement and before the title IV-E agency obtains the judicial determination regarding the child's best interests, the child's foster care episode ends, and the child is not eligible for title IV-E for the remainder of the foster care episode. If the voluntary placement agreement expires (meaning it is not revoked) within 180 days of the agreement and before the title IV-E agency secures the best interests judicial determination, the agency temporarily loses placement and care authority for the child, and therefore, title IV-E eligibility ends on the day the voluntary placement agreement expires (Review Instrument, Section L). If this otherwise eligible child remains in foster care, title IV-E eligibility can begin again on the first of the month, for the entire month of placement, the agency obtains the required best interests judicial determination, unless the 180-day timeframe has expired [§ 472(g) of the Act].

If the agency claims title IV-E foster care maintenance payments for a period in which the child is not eligible and the ineligible period is outside the PUR, the sample case is a non-error case with ineligible payments that are disallowed. If the agency claims title IV-E foster care maintenance payment for a period in which the child is not eligible and the ineligible period is in the PUR, the sample case is an error case with ineligible payments that are disallowed.

Record ineligible period(s) on the Improper Payment Chart (Appendix 2 of the Review Instrument).

H. VALID REMOVALS

[Statutory Citations: §§ 472(a)1 & 2 of the Act; Regulatory Citation: 45 CFR § 1356.21(k)(2)]

17. Is there a valid removal of the child from the home for the most recent foster care episode?
The questions in this section evaluate whether there is a valid removal of the child in accordance with the regulatory requirements for title IV-E eligibility.

For title IV-E eligibility purposes, a valid removal occurs when a child's court-ordered or voluntary removal results in and coincides with the child's physical removal from the specified relative who is the subject of the contrary to the welfare determination, or the signatory to the voluntary placement agreement. Consistent with 45 CFR § 1356.21(k)(2), a removal is not valid for title IV-E purposes when the child is judicially or voluntarily removed from a specified relative and the child remains in the home with that specified relative under the relative's responsibility.

Documentation Requirements. In order to demonstrate that the child has been validly removed, the title IV-E agency must provide documentation that substantiates both when the court made its contrary to the welfare judicial determination or when the voluntary agreement is signed and when the child is physically removed. Such documentation would include: a court order or voluntary placement agreement to establish when the child was legally removed. The placement history and case notes can be used to establish any extenuating circumstances if the child was not removed immediately after the date of the contrary to the welfare determination or voluntary placement agreement authorizing the child's removal.

17(a). Is the child's removal the result of a court order or a voluntary placement agreement?

- Mark *YES* if the child was removed via court order or voluntary placement agreement, i.e., Question 11 or 14 previously marked *YES*.
- Mark *NO* if not, i.e., Questions 11 and 14 previously marked *NO*.

17(b). If Question 17(a) is *YES*, does the child's physical removal coincide with the court order or voluntary placement agreement authorizing the removal?

- Mark *N/A* if the child's removal is not the result of a court order or voluntary placement agreement.
- Mark *YES* if the child's physical removal coincides with the court order or voluntary placement agreement that authorizes the removal. Record the date (month/day/year) of the physical removal and the date (month/day/year) of the removal court order or the voluntary placement agreement. Mark *YES* also if the child's only placement during the foster care episode is a licensed, family-based residential treatment facility for substance abuse and the removal is according to a court order or voluntary placement agreement and in the "Comments" section on the Review Instrument indicate this placement arrangement as the reason for the *YES* response to Question 17(b). Whether the child's physical removal coincides with the judicial or voluntary removal is immaterial in this instance.
- Mark *NO* if the child's physical removal does not so coincide.

The title IV-E agency must physically remove the child from the home of the specified relative who is the subject of the contrary to the welfare judicial determination or who signed the voluntary placement agreement by the end of the next day, after the judicial determination is made or the voluntary placement agreement is signed. However, a child who is judicially or voluntarily removed while living with a parent in a licensed, residential family-based treatment facility for substance abuse does not need to be physically removed from the parent if the child's only placement during the foster care episode is that placement setting. The child's placement in a licensed, residential family-based treatment facility for substance abuse must have begun on or after October 1, 2018. The only other circumstance in a judicial removal under which it is permissible for a child to remain with that specified relative longer is if the court order specifies an alternative time frame for removal, as allowed for in DAB Decision 2017 or there are extenuating circumstances delaying the immediate removal of the child. If a reviewer identifies a delayed removal with an extenuating circumstance, advise the CB Review Lead immediately.

Similarly, if the child is removed via a voluntary placement agreement, the child must be physically removed by the end of the next day, unless the agreement specifies a removal date or there are extenuating circumstances delaying the immediate removal of the child. A qualifying extenuating circumstance may be one that relates to the child's unavailability, such as a child who has run away or a child whose parent has absconded with the child. If a reviewer identifies a delayed removal with an extenuating circumstance, advise the CB Review Lead immediately.

17(c). Are the requirements met for a valid removal?

- Mark *YES* if the title IV-E agency meets the valid removal requirement.
- Mark *NO* if (1) the child is not removed through a court order or voluntary placement agreement; (2) the child remains in the home of and in the care of the specified relative from whom removed through a court-order or voluntary placement agreement; or (3) the child's physical removal from the specified relative does not coincide with the judicial determination or voluntary placement agreement that sanctions the child's removal.

17(c)(1). If Question 17(c) is *NO*, are title IV-E payments claimed for the period of ineligibility?

- Mark *N/A* if the title IV-E agency meets the valid removal requirement.
- Mark *YES* if the answer to Question 17(c) is *NO* and the agency claimed title IV-E foster care maintenance payments.
- Mark *NO* if the agency did not claim title IV-E foster care maintenance payments.

When payments may begin and when payments must end. If the title IV-E agency does not meet the valid removal requirement, the child is not title IV-E eligible for the entire foster care episode, and this is an error case with ineligible payments that are disallowed.

Record ineligible period(s) on the Improper Payment Chart (Appendix 2 of the Review Instrument).

I. ONGOING JUDICIAL ACTIVITY: Reasonable Efforts to Finalize the Permanency Plan (Applicable to Court-Ordered Removals Only)

[Statutory Citation: § 472(a)(2) of the Act; Regulatory Citation: 45 CFR § 1356.21(b)(2) & (d)]

The “Judicial Determination for Reasonable Efforts to Finalize the Permanency Plan Chart," (see grayed out sample below from the Review Instrument), is not required to be completed, but may be useful to determine the most recent judicial finding that the title IV-E agency attained prior to the PUR and to determine whether a judicial finding is required during the 12-month period that includes the PUR. If, after completing the chart, the reviewer finds that a judicial determination is not timely and the title IV-E agency has claimed title IV-E for the late period, record the ineligible period(s) on the Improper Payment Chart, Appendix 2 of the Review Instrument.

Judicial Determination for Reasonable Efforts to Finalize the Permanency Plan Chart

Determination Date	Due Date for Next Determination	Date It Is Made	Is It Timely?	Is Title IV-E Claimed? (Yes or No)

General Instructions, Questions 18–19(e)(1). Section I addresses whether the title IV-E agency has secured a judicial determination that it has made reasonable efforts to finalize the permanency plan for the child on whose behalf the agency claimed title IV-E foster care maintenance payments for the 12-month period that includes the PUR.

In order to maintain the title IV-E eligibility of a child who has been judicially removed, the title IV-E agency must secure a judicial determination to the effect that the title IV-E agency has made reasonable efforts to finalize the child's permanency plan. The initial judicial determination of reasonable efforts to

finalize the permanency plan must be made no later than 12 months from the date the child enters foster care (Question 18) and at least once every 12 months thereafter while the child is in foster care [45 CFR § 1356.21(b)(2)]. The timeframe is based on calendar months and the timeliness period ends on the last day of the 12th month.

Documentation Requirements: The judicial determination of reasonable efforts to finalize the permanency plan, pursuant to 45 CFR § 1356.21(d), must be: (1) made in a valid court order; (2) made on a case-by-case basis and be child-specific (e.g., naming the child who is the subject of the order); (3) explicitly stated in the court order (e.g., judicial finding is definitive, reviewers may not infer the court's meaning); and (4) in conformity with federal regulatory time frames to satisfy compliance with the title IV-E requirements for court-ordered removals.

Affidavits, *nunc pro tunc* court orders, and other similar-purpose documents are not acceptable documentation to support a judicial finding, except as provided in § 479B of the Act for a limited period for Tribes. If the title IV-E agency does not provide an acceptable court order during the IV-E Review to substantiate a child's title IV-E eligibility, the only documentation acceptable as alternate documentation is an official transcript of the court proceeding [45 CFR § 1356.21(d)]. While the precise words "reasonable efforts to finalize the permanency plan" do not have to be included in the court ruling, DAB Decision 1998 held that the use of the term "explicit" in the regulations at 45 CFR § 1356.21(d) means that it is not sufficient if the court order merely implies that reasonable efforts are made. There must be an expressed statement in the court order or court transcript that can be clearly understood as a determination that the title IV-E agency has made reasonable efforts, as required for title IV-E eligibility. A list of the efforts that an agency has made or the court's adoption of a report that details the agency's efforts without the resulting judicial determination that such efforts are reasonable, is not sufficient to satisfy this requirement. Similarly, a judicial determination that the agency has made reasonable efforts to provide services or meet the needs of the child does not satisfy the judicial requirement of reasonable efforts to finalize the permanency plan. Although a provision of services is one of the activities the title IV-E agency undertakes to finalize the plan, the judicial determination needs to convey whether the court finds that the services and other agency activities reasonably advanced the implementation of the permanency plan toward finalization.

Examples of unacceptable court findings that require the CB to review a court transcript include:

- Affidavits that attest that the judicial determination was rendered sufficiently and/or timely in the absence of a sufficient court order;
- Judicial determinations that reference a statute, but do not have the requisite "reasonable efforts" findings;
- *Nunc pro tunc* judicial findings that change the substance of a prior judicial determination; change the date that a hearing occurred or finding is made; or include a judicial determination not previously made;
- Inexplicit or non-child-specific judicial findings; and
- Judicial findings that restrict the "reasonable efforts" finding to reasons of "federal funding" purposes.

Questions 18─19(e)(1) walk the reviewer through the steps necessary to determine whether the title IV-E agency has met the judicial requirement for the PUR.

18. What is the date that the child entered foster care?

- Mark *N/A* if the child is removed via voluntary placement agreement, or if the child's foster care episode does not last for 60 days, and a judicial finding of child abuse or neglect is not rendered prior to the end of the foster care episode.
- Otherwise, record the date (month/day/year) that the child entered foster care as defined below.

As defined in § 475(5)(F) of the Act and 45 CFR § 1355.20(a), the date the child is considered to have entered foster care is the date that is the earlier of either a conclusive judicial finding to the effect that the child has been subjected to child abuse or neglect or 60 calendar days after the date the child is physically or constructively removed from the home through a court order or voluntary placement agreement (see also DAB Decision 1903).

The date the child entered foster care usually is not the date that the child is placed into a foster care placement setting, nor is it usually the same date that the child is judicially removed (Question 10).

The date recorded in Question 18 is the date used to determine when the title IV-E agency is required to have obtained the initial judicial determination of reasonable efforts to finalize the permanency plan.

In the Review Instrument's "Relevant Dates" chart, record the date that the child is judicially removed from home; and the beginning and ending dates of the PUR for this IV-E Review. See sample below for reference.

Relevant Dates:

Date Removed (MM/DD/YY): ____/____/____

Dates of PUR(MM/DD/YY):

Begin date: ____/____/____ End date: ____/____/____

Answer Questions 19─19(e)(1) in sequential order and read the instructions completely for each question before answering to verify whether the title IV-E agency has satisfied the judicial determination of reasonable efforts to finalize the permanency plan requirement for the 12-month period that includes the PUR.

19. Has the child been in foster care for 12 months or more prior to the last day of the PUR?

- Mark *N/A* if the child is not removed via court order.
- Mark *YES* if the child has been in foster care 12 months or more prior to the last day of the PUR.
- Mark *NO* if the child has not.

A *YES* or *NO* response is based on the date that is 12 months from the foster care entry date recorded in Question 18. If the *NO* box is checked for Question 19, a judicial determination of reasonable efforts to finalize the permanency plan is not due for the PUR.

19(a). If Question 19 is *YES*, date of the last judicial determination immediately before the PUR (MM/YY):

- Mark *N/A* if: (1) the removal is the result of a voluntary placement agreement; (2) the response to Question 19 is *NO*; (3) the due date of the initial judicial determination falls within the PUR; or (4) the due date for the judicial determination falls within the 12-month period immediately before the PUR but is not made prior to the beginning of the PUR.
- If the *N/A* box is checked, leave blank the space provided for recording a date. Explain below in "Comments" the specific reason for the *N/A* response.
- Otherwise, record the date (month/year) of the last judicial determination that is obtained before the beginning of the PUR.

This question establishes whether a reasonable effort to finalize the permanency plan judicial finding is required for the 12-month period that includes the PUR.

19(b). Date the next judicial determination is due (MM/YY):

- Mark *N/A* if the removal is the result of a voluntary placement agreement or the response to Question 19 is *NO*.
- Otherwise, record the date (month/year) of the judicial determination that is due 12 months from the date recorded in Question 19(a).
- If a date is not recorded in Question 19(a) because the required judicial determination is not made before the PUR, record the date it should have been made immediately before the PUR or should be made during the PUR and note below in Comments the reason for the recorded date.

19(c). Date the Question 19(b) judicial determination is made (MM/YY):

- Mark *N/A* if: (1) the removal is the result of a voluntary placement agreement; (2) the response to Question 19 is *NO* or (3) the due date recorded in Question 19(b) is after the end of the PUR and the judicial determination is not made during the PUR.
- Explain below in "Comments" the specific reason for the *N/A* response.
- Otherwise, record in Question 19(c) the date (month/year) that the judicial determination referenced at Question 19(b) is made. If the judicial determination is due after the PUR but is made in the PUR, record that date. If the judicial determination is due for the PUR but is not made, record "Not made" in the date space, and explain below in Comments the reason for the response.

19(d). Is the Question 19(c) judicial determination timely?

- Mark *N/A* if: (1) the removal is the result of a voluntary placement agreement; (2) the response to Question 19 is *NO*; or (3) if Question 19(c) is *N/A*.
- Explain below in Comments the specific reason for the *N/A* response.
- Otherwise, mark *YES* or *NO* based on the date recorded in Question 19(c).

A judicial determination is considered timely if the finding is made by the last day of the month of the required 12-month time frame. The date of the latest judicial determination is used to determine the date the subsequent one must be made. An untimely judicial determination renders the child ineligible beginning on the first day of the month after it is due and continuing to the first day of the month it is attained. Explain below in Comments the specific reason the requirement is not satisfied.

19(e). Is the requirement met for the judicial finding of reasonable efforts to finalize the permanency plan?

- Mark *N/A* if: (1) the child is removed via voluntary placement agreement, (2) the response to Question 19 is *NO*, or (3) if the answer to Question 19(c) is *N/A*.
- Otherwise, consider the answers to Questions 18─19(d).
- Mark Question 19(e) *YES* if (1) the due date in Question 19(b) is after the end of the PUR or (2) the judicial determination recorded in Question 19(c) is (a) child specific; (b) to the effect the title IV-E agency made reasonable efforts to finalize the child's permanency plan; (c) explicitly stated in the court order or court transcript; and (4) timely within the PUR.
- Mark *NO* if the agency has not met the requirement.

19(e)(1). If Question 19(e) is *NO*, are title IV-E payments improperly claimed for the period of ineligibility in the PUR?

- Mark *N/A* if: (1) the child is removed via voluntary placement agreement; (2) the answer to Question 19(c) is *N/A*; or (3) the answer to Question 19(e) is *YES*.
- Mark *YES* if the title IV-E agency claimed title IV-E foster care maintenance payments for the period that the judicial requirement is not met by the last day of the month of the required 12-month time frame that falls within the PUR, Question 19(d) and Question 19(e).
- Mark *NO* if the title IV-E agency did not claim title IV-E foster care maintenance payments for the period of ineligibility during the PUR.

When payments may begin and when payments must end. In the instance of an untimely judicial determination, if the title IV-E agency secures the judicial determination in the month immediately following the month it is due, the child regains eligibility beginning on the first day of that month. In such a circumstance, the agency may claim title IV-E foster care maintenance payments without a break in claim and claims made for that period are considered properly paid for the entire month regardless of the date in the month the judicial determination requirement is satisfied. On the other hand, if the agency does not secure the untimely judicial finding within the month immediately following the month it is due, the child is considered ineligible for title IV-E foster care maintenance payments beginning on the first day of the month after the finding is due [45 CFR § 1356.21(b)(2)].

If the title IV-E agency claims title IV-E foster care maintenance payments for a period in which the child is not eligible and the ineligible period is outside the PUR, the sample case is a non-error case with ineligible payments that are disallowed. If the agency claims title IV-E foster care maintenance payment for a period in which the child is not eligible and the ineligible period is in the PUR, the sample case is an error case with ineligible payments that are disallowed.

Record ineligible period(s) on the Improper Payment Chart (Appendix 2 of the Review Instrument).

J. AFDC ELIGIBILITY

[Statutory Citation: §§ 472(a)(1) and (3) of the Act; Regulatory Citation: 45 CFR §§ 1356.21(k) & (l) and 1356.71(d)(1)(v)]

General Instructions, Section J.

The purpose of the title IV-E foster care program is to provide financial assistance to title IV-E agencies for the care of children in foster care who meet the eligibility requirements for the former Aid to Families with Dependent Children (AFDC) program. Thus, a child's eligibility for title IV-E is predicated partially on the child's eligibility for AFDC. The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) (Public Law 104–193), which repealed the AFDC program, requires title IV-E agencies to apply the AFDC eligibility requirements that were in place in the state's title IV-A plan for AFDC on July 16, 1996 (disregarding any Section 1115(a) waivers that may have been in effect on that date), when determining whether children are eligible for title IV-E foster care assistance.

For purposes of the IV-E Review, in or for the month of the voluntary placement agreement or initiation of removal court proceedings, the title IV-E agency is expected to document that the child is: (1) removed from the home of a specified relative; (2) living with that same specified relative within 6 months of removal; and (3) AFDC-eligible in that home in the month of the removal petition, court order, or voluntary placement agreement. In the home from which the child is removed, the child also must have been (1) financially needy and (2) deprived of parental support or care. If the title IV-E agency does not document that the child has met the AFDC requirements, the agency may reconstruct the AFDC factors to verify the child's eligibility. (Reconstruction of the eligibility determination is further discussed at Question 24.)

The Family First Prevention Services Act (the Family First Act), signed into law on February 9, 2018, permits title IV-E foster care maintenance payments for an otherwise eligible child removed via court order or via a voluntary placement and placed with the child's parent(s) in a family-based residential treatment center while in foster care. The Family First Act's requirements that relate to this title IV-E provision took effect for children whose placements in a family-based residential treatment center began on or after October 1, 2018. If the child's only placement during the foster care episode is a licensed, family-based residential treatment setting, the child need not be eligible for AFDC in order for the title IV-E agency to claim title IV-E foster care maintenance payments [§ 472(j)(1) of the Act]. Therefore, for such a child, reviewers will not assess whether the child is eligible for AFDC.

However, if the child also is placed anywhere other than a family-based residential treatment center during the foster care episode, in order to claim title IV-E foster care maintenance payments, the title IV-E agency will need to ensure that the child would have been eligible for AFDC according to the state's title IV-A AFDC plan (as it was in effect on July 16, 1996) in the home of the specified relative from whom the child is removed.

20. Is the child judicially or voluntarily removed from a specified relative?

- Mark *N/A* for a removal on or after October 1, 2018, if the child's only placement during the foster care episode is in a residential family-based treatment facility for substance abuse.
- Mark *YES* if the child is removed from a specified relative.
- Mark *NO* if the child is not removed from a specified relative.

In the blank space, write the relationship of the individual to the child (e.g., mother, aunt, family friend, schoolteacher). The reviewer should not include the individual's name.

In order for a title IV-E agency to claim title IV-E foster care maintenance payments on behalf of an otherwise eligible child, the child must be removed via court order or voluntary placement agreement from a specified relative. A specified relative is a parent or any relation by blood, marriage, or adoption who is within the fifth degree of kinship to the child [45 CFR § 233.90(c)(1)(v)].

These are:

- Any blood relative, including those of half-blood, and including first cousins, nephews, or nieces; persons of preceding generations as denoted by the prefixes grand, great, or great-great;
- Stepfather, stepmother, stepbrother, and stepsister;
- 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
- Spouses of any persons named in the above groups, even after the marriage is terminated by death or divorce.

In order to determine whether the child is removed from a specified relative, the reviewer should examine the removal court order to determine against whom the contrary to the welfare judicial determination is made or should review the voluntary placement agreement to determine who has signed it, and verify that the individual is a specified relative to the child. The reviewer also should write the relationship (but not the name) of the individual to the child in the blank space on the Review Instrument.

21. If Question 20 is *YES*, has the child lived with the specified relative identified in Question 20 within 6 months of the initiation of court proceedings or signing of the voluntary placement agreement?

- Mark *N/A* for a removal on or after October 1, 2018, if the child's only placement during the foster care episode is in a residential family-based treatment facility for substance abuse. Also mark *N/A* if the answer to Question 20 is *NO*.
- Mark *YES* if the child has lived with the specified relative at Question 20 within 6 months of the title IV-E agency filing a petition to initiate the child's removal or within 6 months of the parent or legal guardian signing the voluntary placement agreement for removal. Also, mark *YES* for a removal on or after October 1, 2018, if the child has lived with a kin caregiver for more than 6 months and during the stay has received title IV-E prevention services prior to being removed for the foster care placement [§ 471(e)(10)(B) of the Act].
- Mark *NO* if the child has not lived with the specified relative within the 6 months described above.
- For a judicial removal, record (1) the date (month/day/year) that the child last lived with the specified relative and (2) the date (month/day/year) the court proceedings are initiated for the removal. For a removal through a voluntary placement agreement, record the date (month/day/year) the agreement is signed. For judicial removals, the date the court proceedings are initiated to judicially remove the child is usually the date the removal petition is filed with the court. However, the date of the removal court order should be recorded as the date court

proceedings are initiated if a removal petition is not filed for the foster care episode or is filed after the removal court order.

In order for the title IV-E agency to claim title IV-E foster care maintenance payments on behalf of an otherwise eligible child, the child must have been living with the specified relative within 6 months of the judicial removal or voluntary placement agreement to physically or constructively remove the child from that specified relative. If the child is living with an interim caregiver during the month of the voluntary placement agreement or initiation of court removal proceedings, but has lived with the specified relative (from whom judicially removed or voluntarily placed) at some point during the 6 months before the voluntary placement agreement or initiation of court proceedings, the child is considered to have been living with and constructively removed from the home of the specified relative from whom he or she is judicially or voluntarily removed [472(a)(3)(A)(II) of the Act and 45 CFR § 1356.21(l)(2)]. Calculation of the 6-month period for the living with requirement is based on calendar months and the period ends on the last day of the 6th month.

The Family First Act established one exception to the requirement that the child must have lived with the specified relative within 6 months of the judicial removal or voluntary placement agreement to physically or constructively remove the child from the specified relative. The living with requirement is considered to have been met for a foster care candidate who has received title IV-E prevention services in accordance with § 471(e)(10)(B) of the Act while residing with a kin caregiver for more than 6 months and who is placed in foster care on or after October 1, 2018. The kin caregiver need not be a specified relative as defined at 45 CFR § 233.90(c)(1)(v). Instead, the kin caregiver must be considered kin under the governing state or tribal law or policy.

22. Are the removal from and living with requirements met by the same specified relative?

- Mark *N/A* for a removal on or after October 1, 2018, if the child's only placement during the foster care episode is in a residential family-based treatment facility for substance abuse.
- Mark *YES* if the requirements are met by the same specified relative (Question 20 and Question 21).
- Mark *NO* if the requirements are not met by the same specified relative.

The "removal from" and "living with" requirements must be satisfied by the same specified relative and AFDC eligibility must be based on that relative's home. The statute did not contemplate the "living with" and "removal from" requirement to be satisfied by two discrete individuals. In a judicial removal, the AFDC eligibility is based on the home of the specified relative who is the subject of the "contrary to the welfare" judicial determination. In a voluntary placement removal, the AFDC eligibility is based on the home of the specified relative who signs the voluntary placement agreement.

23. Has the title IV-E agency completed a determination of AFDC eligibility?

- Mark *N/A* for a removal on or after October 1, 2018, if the child's only placement during the foster care episode is in a residential family-based treatment facility for substance abuse.
- Mark *YES* if the title IV-E agency has documented that it completed a determination of AFDC eligibility.
- Mark *NO* if the agency has not documented such a determination.

Documentation Requirements. During the IV-E Review, the title IV-E agency must document for the most recent foster care episode that it made a determination that the child is financially needy and deprived of parental support or care during or for the month the court proceedings are initiated, or voluntary placement agreement is signed for the child's removal.

Reviewers may not independently make an AFDC eligibility determination of the child's eligibility; instead, the reviewer is to ensure that the title IV-E agency has documented that it completed a determination of AFDC eligibility.

23(a). Is AFDC eligibility based on the home of the specified relative against whom the contrary to the welfare judicial determination is made or who has signed the voluntary placement agreement?

- Mark *N/A* for a removal on or after October 1, 2018, if the child's only placement during the foster care episode is in a residential family-based treatment facility for substance abuse.
- Mark *YES* if the title IV-E agency has documented that it based the child's AFDC eligibility on the home of the relevant specified relative (Question 20).
- Mark *NO* if the agency did not base AFDC eligibility on the relevant specified relative.
- Enter in the blank space the relationship of the child to the individual on whose home the AFDC determination is based (e.g., mother, aunt, family friend, schoolteacher). The reviewer should not enter the individual's name.

The provisions at § 472(a)(2)(A) of the Act and 45 CFR § 1356.21(k) mandate that the removal occur according to a court order or voluntary placement agreement authorizing a physical or constructive removal of the child from the home of the specified relative who enters into a voluntary placement agreement with the title IV-E agency or who is the basis of the judicial determination of contrary to the welfare. The agency must determine the child's AFDC eligibility based on that specified relative's home. To determine the removal home, the reviewer should examine the removal court order to determine against whom the contrary to the welfare judicial determination is made or examine the voluntary placement agreement to check who signed the agreement. Then the reviewer should examine the title IV-E agency's eligibility certification to verify whether the agency based the AFDC determination on the correct home.

23(b). Is AFDC eligibility based on the month the court proceedings are initiated or voluntary placement agreement is signed?

- Mark *N/A* for a removal on or after October 1, 2018, if the child's only placement during the foster care episode is in a residential family-based treatment facility for substance abuse.
- Mark *YES* if the title IV-E agency-based AFDC eligibility on the month in which the removal court proceedings were initiated or the voluntary placement agreement was signed.
- Mark *NO* if the agency did not base AFDC eligibility on this month.
- Record the month and year that the agency used to determine the first month of AFDC eligibility.

Consistent with § 472(a) of the Act, the AFDC determination must be made for and AFDC eligibility must be met in either the month the court proceeding leading to the requisite judicial determination is initiated

through a removal petition or removal court order or the month the voluntary placement agreement is signed.

The reviewer should examine the voluntary placement agreement or the removal petition (or removal court order if a petition is not filed before the removal order) and review the title IV-E agency's AFDC eligibility determination to verify whether the agency based the AFDC determination on the correct month.

24. Does the child meet the AFDC requirements for eligibility?

- Mark *N/A* for a removal on or after October 1, 2018, if the child's only placement during the foster care episode is in a residential family-based treatment facility for substance abuse.
- Mark *YES* if the title IV-E agency documented that the child met the AFDC eligibility requirements.
- Mark *NO* if the agency did not document that the child met the AFDC eligibility requirements.

Consider your answers to Questions 20–23. If any of the answers are *NO*, the title IV-E agency did not document that child has met the overall AFDC requirements.

However, the title IV-E agency may reconstruct the AFDC factors to verify the child's initial eligibility if (1) it has not determined a child's AFDC eligibility; (2) the title IV-E agency conducted the child's AFDC determination on the wrong specified relative or used the wrong AFDC month; or (3) the title IV-E agency subsequently received information that will change the agency's previous determination regarding the child's initial eligibility.

To reconstruct AFDC eligibility, the title IV-E agency must retrospectively establish the case facts that existed for the eligibility month using the state's AFDC eligibility criteria in effect as of July 16, 1996. Any familial or economic changes that occur after the eligibility month may not be considered when determining the child's AFDC eligibility for the foster care episode. Perfunctory check-off of an AFDC worksheet without the title IV-E agency fully exploring and documenting the pertinent case facts will not suffice for establishing eligibility.

The title IV-E agency must demonstrate that the child is AFDC eligible for either the month the court proceeding leading to the requisite judicial determination is initiated through a removal petition, or removal court order, ***or*** the month the voluntary placement agreement is signed. If the title IV-E agency is unable to demonstrate with certainty that the child is AFDC eligible, any title IV-E payments made for the questionable determination are disallowed and the case will be in error for the life of the foster care episode. The reviewer should complete the instrument using the corrected, reconstructed information that the agency has provided.

Similarly, if the title IV-E agency is able to reconstruct the AFDC eligibility, but determines the initial eligibility requirements are not met, the case is in error and the title IV-E payments are disallowed.

24(a). If Question 24 is *NO*, are title IV-E payments claimed for the period of ineligibility?

- Mark *N/A* for a removal on or after October 1, 2018, if the child's only placement during the foster care episode is in a residential family-based treatment facility for substance abuse.
- Also mark *N/A* if the answer to Question 24 is *YES*.

- If the answer to Question 24 is *NO*, mark *YES* to question 24(a), if the title IV-E agency claimed title IV-E foster care maintenance payments for period during the PUR.
- Mark *NO* if the agency did not claim title IV-E foster care maintenance payments for the period during the PUR.

When payments may begin and when payments must end. If the title IV-E agency has not established a child's AFDC eligibility, as reviewed in Questions 20–24, the child is not title IV-E eligible for the entire foster care episode. The sample case is in error and the title IV-E foster care maintenance payments are disallowed.

Record ineligible period(s) on the Improper Payment Chart (Appendix 2 of the Review Instrument).

K. AGE AND EXTENDED TITLE IV-E FOSTER CARE ASSISTANCE

[Statutory Citation: §§ 406, 472(a)(1) and (3) of the Act; Regulatory Citation: 45 CFR § 233.90(b)]

25. Is the youth 18 years or older at any point during the PUR?

- Mark *N/A* for a removal on or after October 1, 2018, if the child's only placement during the foster care episode is in a residential family-based treatment facility for substance abuse.
- Mark *YES* if the youth is 18 or older during the PUR.
- Mark *NO* if the youth has not reached age 18 at any point during the PUR.
- Also, record the child's age (in years as of the last day of the PUR).

Federal regulations at 45 CFR § 233.90(b)(2) allow a state to elect in its title IV-A AFDC plan (as in effect July 16, 1996) to provide coverage for eligible youth up to 19 years of age. The AFDC plan option permits eligibility for otherwise-eligible children who are over the age of 18 and under 19 and who are full-time students expected to complete their secondary schooling or equivalent training before reaching age 19 [§ 406 (a) of the Act]. This provision is not related to a title IV-E agency's option to extend title IV-E foster care maintenance payments to a youth up to age 21 pursuant to § 475(8)(B)(iii) of the Act.

The Fostering Connections to Success and Increasing Adoptions Act of 2008 (Public Law 110–351), among other things, amended the Social Security Act (the Act) at § 475(8) to create a title IV-E plan option to extend eligibility for title IV-E foster care to age 21. A youth covered under this title IV-E plan option is not subject to the IV-E Review at this time and is excluded from the case review sample. This exclusion applies even if the AFDC plan option also is exercised by the title IV-E agency. However, if a youth is in foster care until their 19th birthday pursuant only to the state's title IV-A plan, the youth could be in the case review sample. Compliance with the age and school attendance requirements for the title IV-E plan option is covered under regulations at 45 CFR § 1355.32(d), which provide for a partial review process.

The reviewer can determine the youth's exact age by the youth's birth certificate or other reliable sources within the title IV-E agency's files maintained on the youth.

25(a). If Question 25 is *YES*, does the title IV-E agency have an approved AFDC plan option to extend title IV-E coverage to youth 18–19 years old?

- Mark *N/A* if the youth is under the age of 18 as of the last day of the PUR.

- Mark *N/A* also for a removal on or after October 1, 2018, if the child's only placement during the foster care episode is in a residential family-based treatment facility for substance abuse.
- Mark *YES* if the title IV-E agency has an approved AFDC plan for coverage to youth between the ages of 18 and 19.
- Mark *NO* if the agency does not have such a plan.

Prior to the onsite review, the title IV-E agency and CB Review Leads will determine whether this provision will be relevant for the IV-E Review; CB Review Leads will advise reviewers whether the age requirement is applicable during the PUR.

25(b). Is the youth a full-time student in a secondary school or equivalent educational program?

- Mark *N/A* if the title IV-E agency does not have the AFDC plan described above, the child who is being reviewed is under 18 years old during the entire PUR, or the removal is on or after October 1, 2018, and the child's only placement during the foster care episode is in a residential family-based treatment facility for substance abuse.
- Mark *YES* if the youth is a full-time student in a secondary school or equivalent educational program.
- Mark *NO* if the youth is not a full-time student in a secondary school or equivalent educational program.

The conditions for continued title IV-E payments for these youth are that the youth: (1) must be a full-time student in a secondary school or its equivalent level of vocational training or technical training; and (2) is expected to complete the educational program before reaching age 19.

Documentation Requirements, Questions 25(b) and (c). When a title IV-E agency's AFDC plan provides for foster care for youth ages 18─19, and it claims title IV-E foster care maintenance payments on behalf of such a youth, the agency must document the youth's school attendance and progress toward graduation. School records, independent living plans, court orders, case notes, or other equivalent documentation are examples of evidence that may be used to satisfy the school attendance requirement.

25(c). Is the youth expected to complete the educational program before the 19th birthday?

- Mark *N/A* if the title IV-E agency does not have the AFDC plan described above, the child who is being reviewed is under 18 years old during the entire PUR, or the removal is on or after October 1, 2018, and the child's only placement during the foster care episode is in a residential family-based treatment facility for substance abuse.
- Mark *YES* if the youth is expected to complete the educational program prior to turning 19 years old.
- Mark *NO* if the youth is not expected to complete the educational program prior to turning 19 years old.

25(d). Are the requirements met to extend eligibility under the AFDC plan option for youth 18─19 years old?

- Mark *N/A* if the child who is being reviewed is under 18 years old during the entire PUR, the title IV-E agency does not have the AFDC plan option described above, or the removal is on or after

October 1, 2018, and the child's only placement during the foster care episode is in a residential family-based treatment facility for substance abuse.

- Mark *YES* if the agency has satisfied the requirements to extend eligibility to a youth prior to the youth turning 19 years old.
- Mark *NO* if the agency has not satisfied the requirements to extend eligibility to a youth prior to the youth turning 19 years old.

If Questions 25─25(c) have all been answered *YES*, the title IV-E agency has satisfied the requirements for this provision. If any of the answers to Questions 25(a)─25(c) is *NO*, the agency has not satisfied the requirements for this provision, and any associated payments will be disallowed.

For extended title IV-E eligibility coverage under the AFDC plan option, the title IV-E agency must (1) have an approved AFDC plan to extend eligibility up to age 19; (2) document that the youth is a full-time student in a secondary school or its equivalent and (3) document that the youth is expected to complete the educational program before age 19 [Question 25(c)].

25(d)(1). If Question 25(d) is *NO*, are title IV-E funds claimed for the period of ineligibility in the PUR?

- Mark *N/A* if the child who is being reviewed is under 18 years old during the entire PUR or Question 25(d) is *YES*.
- Mark *YES* for Question 25(d)(1) if the agency claimed title IV-E foster care maintenance payments for the period of the youth's ineligibility during the PUR.
- Mark *NO* if the agency did not claim title IV-E foster care maintenance payments during the period of the youth's ineligibility during the PUR.

When payments may begin and when payments must end. Eligibility for the older youth being reviewed ends on the last day of the month in which the youth: (1) leaves school; (2) the title IV-E agency determines the youth will not complete the educational program before reaching age 19 or; (3) the otherwise eligible youth turns 19, whichever occurs earlier.

If the title IV-E agency claims title IV-E foster care maintenance payments for a period in which the child is not eligible and the ineligible period is outside the PUR, the sample case is a non-error case with ineligible payments that are disallowed. If the agency claims title IV-E foster care maintenance payment for a period in which the child is not eligible and the ineligible period is in the PUR, the sample case is an error case with ineligible payments that are disallowed.

Record ineligible period(s) on the Improper Payment Chart (Appendix 2 of the Review Instrument).

L. TITLE IV-E AGENCY RESPONSIBILITY FOR PLACEMENT AND CARE OF CHILD

[Statutory Citation: §§ 472(a)(2)(B)(i) of the Act; Regulatory Citation: 45 CFR § 1356.71(d)(1)(iii)]

26. Who has placement and care responsibility of the child for the entire period of the foster care episode that is within the PUR?

Section L addresses whether the title IV-E agency or another public agency has had responsibility for the placement and care of the child for the entire period of the foster care episode that is within the PUR for which the title IV-E agency claimed title IV-E foster care maintenance payments.

§ 472(a)(2)(B) of the Act requires that responsibility for placement and care of a child is vested with the title IV-E agency, or another public agency or Tribe (also referred to as "public agency") that has a written agreement, as provided for under § 472(a)(2)(B)(ii), that is in effect with the title IV-E agency.

The term "placement and care" means that the title IV-E agency is legally accountable for the day-to-day care and protection of the child who has been placed in foster care through either the requisite judicial determination or a voluntary placement agreement. Placement and care responsibility allows the title IV-E agency to make placement decisions about the child. It also ensures that the title IV-E agency provides the child with the mandated statutory and regulatory protections, including those regarding case plans, administrative reviews, permanency hearings, and updated health and education records.

Documentation Requirements: Evidence that the title IV-E agency has responsibility for placement and care of the child must be documented explicitly in the court order or court transcript or by the voluntary placement agreement. The title IV-E agency must provide documentation for the IV-E Review that it or another public agency with which it has a title IV-E agreement has had placement and care responsibility for the child during the period of the foster care placement in the PUR and title IV-E foster care maintenance payments are properly claimed.

General Instructions: Mark *YES* or *NO* to indicate whether each of the below entities reviewed in Questions 26(a)–26(d) has had responsibility for placement and care of the child during the PUR. If the response is *YES*, record the name of the entity, the dates (month/day/year) of the responsibility and whether the title IV-E agency claimed title IV-E foster care maintenance payments for the period.

26(a). Does the title IV-E Agency have placement and care responsibility?

- Mark *YES* if the title IV-E agency has had placement and care responsibility for the child during the PUR.
- Enter the name of the title IV-E agency and the date (month/day/year) that the agency's placement and care responsibility of the child began and ended.
- Mark *NO* if the title IV-E agency has not had this responsibility during the PUR.

26(a)(1). Are title IV-E funds claimed for the period in 26(a)?

- Mark *N/A* if the title IV-E agency has not had placement and care responsibility for the child during the PUR.
- Mark *YES* if the title IV-E agency has had placement and care responsibility for the child during the PUR and claimed title IV-E foster care maintenance payments for the period.
- Mark *NO* if the title IV-E agency did not so claim.

26(b). Does Another Public Agency have placement and care responsibility?

- Mark *YES* if another public agency has had placement and care responsibility of the child for a period of the foster care episode that is within the PUR.
- Enter the name of that agency and the date (month/day/year) that the agency's placement and care responsibility of the child began and ended.
- Mark *NO* if another public agency has not had this responsibility.

26(b)(1). If Question 26(b) is *YES*, is there a title IV-E agreement in effect between this agency and the title IV-E agency that covers the period in 26(b)?

- Mark *N/A* if another public agency has not had placement and care responsibility of the child for a period of the foster care episode that is within the PUR.
- If the answer to Question 26(b) is *YES*, mark *YES* if there is a title IV-E agreement in effect between the agency and the title IV-E agency that covers the relevant period.
- Mark *NO* if there is not an agreement in effect. The CB Review Lead will advise the reviewer whether the title IV-E agency has placement and care agreements in effect with another public agency.

When a public agency enters into an agreement with the title IV-E agency under § 472(a)(2)(B) of the Act, a properly executed agreement permits the public agency to operate as a title IV-E agency for a specified population of children in foster care. This agreement is not merely an interagency agreement or service contract that addresses activities that are carried out by the title IV-E agency and the other public agency. The placement and care agreement gives the public agency responsibility to administer the title IV-E foster care program on the title IV-E agency's behalf for children under the placement and care of the public agency.

The public agency that enters into a § 472(a)(2)(B) agreement with the title IV-E agency must be authorized under the governing state or Tribal law to operate as a child-placing agency and must be operating as such during the period that the agreement is in effect.

26(b)(2). Are title IV-E funds claimed for the period in 26(b)?

- Mark *N/A* if the title IV-E agency has placement and care responsibility for the child during the entire period of the foster care placement during the PUR.
- If the answer to Question 26(b) is *YES*, mark *YES* if the title IV-E agency claimed title IV-E foster care maintenance payments for the child during the period of the foster care placement in the PUR.
- Mark *NO* if the title IV-E agency did not so claim.

26(c). Does a Private Agency have placement and care responsibility?

- Mark *YES* if a private agency has had placement and care responsibility for the child during the PUR. Enter the name of the private agency and the dates (month/day/year) that its placement and care responsibility for the child began and ended.
- Mark *NO* if a private agency has not had this responsibility.

26(c)(1). Are title IV-E funds claimed for the period in 26(c)?

- Mark *N/A* if a private agency has not had placement and care responsibility for the child during the period of the foster care placement in the PUR.
- Mark *YES* if the title IV-E agency claimed title IV-E foster care maintenance payments for the child for the recorded period of the foster care placement in the PUR.

- Mark *NO* if the title IV-E agency did not claim title IV-E foster care maintenance payments for that period.

26(d). Does an individual have placement and care responsibility?

- Mark *YES* if an individual, related or unrelated to the child, has had placement and care responsibility of the child during the period of the foster care placement in the PUR.
- Enter the individual's relationship to the child and the dates (month/day/year) that his or her placement and care responsibility for the child began and ended.
- Mark *NO* if an individual has not had this responsibility.

26(d)(1). Are title IV-E funds claimed for the period in 26(d)?

- Mark *N/A* if an individual has not had placement and care responsibility of the child during the period of the foster care placement in the PUR.
- Mark *YES* if the title IV-E agency claimed title IV-E foster care maintenance payments for the recorded period.
- Mark *NO* if the agency did not claim title IV-E foster care maintenance payments for that period.

27. Are the requirements regarding placement and care met for the PUR?

- Mark *YES* if the title IV-E agency or another public agency that has a title IV-E agreement with the title IV-E agency has had placement and care responsibility of the child during the entire period of the foster care placement in the PUR that title IV-E foster care maintenance payments were claimed.
- Mark *NO* if the title IV-E agency has not satisfied the placement and care requirements for the child during the PUR.

27(a). If Question 27 is *NO*, are title IV-E funds claimed for the period of ineligibility in the PUR?

- Mark *N/A* if the answer to Question 27 is *YES*.
- Mark *YES* if the agency claimed title IV-E foster care maintenance payments for the period of ineligibility during the PUR.
- Mark *NO* if the agency did not claim title IV-E funds for the period of ineligibility during the PUR.

When payments may begin and when payments must end. Placement and care responsibility may be granted at removal or at any point in the foster care episode. However, title IV-E maintenance payments may not be claimed (1) before the month the eligibility requirement is met or (2) for the period beginning on the day in the month the title IV-E agency loses placement and care authority for the child. The otherwise eligible child can become eligible again as of the first day of the child's placement in the month that the agency regains placement and care authority for the child.

If the title IV-E agency claims title IV-E foster care maintenance payments for a period in which the child is not eligible and the ineligible period is outside the PUR, the sample case is a non-error case with ineligible payments that are disallowed. If the agency claims title IV-E foster care maintenance payment for a period in which the child is not eligible and the ineligible period is in the PUR, the sample case is an error case with ineligible payments that are disallowed.

Record ineligible period(s) on the Improper Payment Chart (Appendix 2 of the Review Instrument).

M. PLACEMENT IN LICENSED FOSTER CARE SETTINGS

[Statutory Citation: §§ 472(b), (c), (j) & (k) of the Act; Regulatory Citation: 45 CFR §§ 1355.20 and 1356.71(d)(1)(iv)].

General Instructions, Section M

Section M is completed for every place where the child resided during the PUR. There may be some placement settings for which the title IV-E agency does not claim title IV-E foster care maintenance payments for the child's period of stay. First, consult the child's placement history and payment history to determine each of the child's placement settings during the PUR for which the title IV-E agency **has not** claimed title IV-E foster care maintenance payment (IV-E FC Maintenance) for the period of the child's stay. For each such placement, record in the "Child's Placement History Chart for the PUR, IV-E FC Maintenance Not Claimed" (see sample chart below from section M of the Review Instrument) the placement setting's name, placement type, and start and end dates (month/day/year) of the child's stay in this setting. If the title IV-E agency claimed title IV-E foster care maintenance payments for all of the child's placement settings during the PUR, leave the chart blank.

All personal information recorded in the placement history chart and in Question 28 is confidential and must not be disclosed for any purposes outside of the title IV-E Review.

Child's Placement History Chart for the PUR, IV-E FC Maintenance Not Claimed:

Placement Name	Placement Type	Placement Start Date	Placement End Date
1.			
2.			
3.			
4.			
5.			
6.			
7.			
8.			
9.			
10.			

For the child's placement during the PUR for which the title IV-E agency **has** claimed foster care maintenance payments, complete the rest of Section M, beginning with Question 28. Use the "Licensing/Safety Checklist for Multiple Foster Care Placements," Appendix 1 of the Review Instrument, provided to record each additional placement during the PUR for which the title IV-E agency has claimed a title IV-E foster care maintenance payment. Do not complete the placement information in Section M, Questions 28–30(d)(1) if the agency did not claim title IV-E foster care maintenance payments for the period that the child was in a placement during the PUR.

28. **Child's placement in the PUR for which IV-E FC maintenance is claimed:** Record the name of the foster family home (the name of the foster parent(s) on the license) and address, or the name and address of the child care institution or the name and address of another setting where the child resided during the PUR for which the title IV-E agency claimed foster care maintenance payments. Record information on the most recent placement setting and use the "Licensing/Safety Checklist for Multiple Foster Care Placements," Appendix 1 of the Review Instrument, to record each additional placement during the PUR for which the title IV-E agency has claimed a title IV-E foster care maintenance payment.
29. **Date(s) of child's stay in the placement setting identified in Question 28.** Record the beginning and ending dates (month/day/year) that cover the entire time that the child resided in this setting (including the time period that falls during the PUR, as well as any periods before or after the PUR). If the child is placed in the setting multiple times during the foster care episode, record those dates for each period of stay. Only one Appendix 1 sheet need be used for this placement.
30. **Type of placement setting in Question 28**. In Question 30, mark the specific type of placement setting recorded in Question 28, including the applicable subcategory if the placement is a child care institution, where the child has lived during the PUR, as instructed below. Use the licensing certificate, approval letter, or other official documentation for the placement to determine in what type of placement setting the child is placed.

In order for a title IV-E agency to claim title IV-E foster care maintenance payments for a child, the child's placement must be one specified at § 472(c) of the Act. These placements are a foster family home; a child care institution [as permitted under § 472(k) of the Act]; or a residential family-based treatment facility for substance abuse with a parent [as permitted under § 472(j) of the Act]. Only mark the "Other" category when the child has not lived in one of the title IV-E allowable foster care placement types during the PUR.

30(a). Foster Family Home.

30(b). Child care institution.

- Check the type of child care institution:
  - Group home
  - Public child care institution that houses 25 or fewer children
  - Private child care institution
  - Child care institution specializing in providing prenatal, post-partum or parenting supports for youth
  - Child care institution specializing in providing services for children and youth at risk of becoming, or who are, sex trafficking victims
  - Supervised independent living setting for youth age 18 or older
  - Qualified residential treatment program

30(c). Licensed Residential Family-Based Treatment Facility for Substance Abuse.

30(d). Other (Specify Other).

- Choose 30(d) if the placement in Question 28 is not one of the types of placement settings listed in Questions 30(a)–(c) for this placement period.
- Record the "Other" placement setting where the child has lived during the PUR.

30(d)(1). If Question 30(d) is *Other*, are title IV-E funds claimed for the period that the child resided in the placement during the PUR?

- Mark *N/A* if Question 30(d) is not checked.
- Mark *YES* if the payment history reflects that the title IV-E agency claimed title IV-E foster care maintenance payments for the period that the child resided in the placement during the PUR.
- Mark *NO* if title IV-E foster care maintenance payments were not claimed.

A child is ineligible for title IV-E while in a placement marked "Other," and the claimed title IV-E foster care maintenance payments are disallowed. Generally, a child is not eligible for title IV-E if the child is in a placement setting such as a: detention center; hospital or other medical facility; public institution of more than 25 children; pre-adoptive family home that is not licensed as a foster family home; supervised setting in which the child under age 18 is living independently or the child is at home in the care of a parent. (Refer below to "When payments may begin and when payments must end during a temporary absence" for limited conditions permitting title IV-E foster care maintenance payments.)

When payments may begin and when payments must end during a temporary absence: The title IV-E agency may claim for a full month's title IV-E foster care maintenance payment for an eligible child's stay in an allowable foster care placement if a child is temporarily absent from that placement for a portion of the month. For example, the child has run away, goes on a weekend home visit, or is hospitalized for medical treatment during some part of the month. This applies if the brief absence does not exceed 14 days and the child returns to the same foster care placement after the absence. Otherwise, the title IV-E agency must prorate its claims if the child is away from the foster care placement for more than 14 days. The prorated amount is based on the period of time the child is in the foster care placement prior to the absence from it (CWPM at 8.3B, Question 7).

If the title IV-E agency claims title IV-E foster care maintenance payments for a period in which the child is not eligible and the ineligible period is outside the PUR, the sample case is a non-error case with ineligible payments that are disallowed. If the agency claims title IV-E foster care maintenance payment for a period in which the child is not eligible and the ineligible period is in the PUR, the sample case is an error case with ineligible payments that are disallowed.

Record ineligible period(s) on the Improper Payment Chart (Appendix 2 of the Review Instrument).

General Instructions, placements in child care institutions. For the placement setting indicated at Question 30(b): Answer Questions 31–31(c)(1) if the child is residing in a child care institution during the PUR and the title IV-E agency claimed title IV-E maintenance payments for the placement period. Mark *N/A* for Questions 31–31 (c)(1) if the child is not residing in a child care institution for this placement or the title IV-E agency has not claimed title IV-E maintenance payments for the placement period during the PUR.

31. If the child's placement during the PUR is a child care institution, does the child's placement in this setting begin on or after October 1, 2019, or the title IV-E agency's delayed effective date for § 472(k) of the Act?

- Mark *N/A* if the child's placement is not a child care institution.
- Mark *YES* if the child is placed in a child care institution on or after October 1, 2019, or the title IV-E agency's delayed effective date.
    - Enter the State's effective date.
- Mark *NO* if the child is placed in the child care institution prior to October 1, 2019, or prior to the agency's delayed effective date.

The Family First Act's requirements that relate to child care institutions took effect for children whose placements in a child care institution began on or after October 1, 2019, or the title IV-E agency's approved delayed effective date. The CB Review Leads will advise what date applies for the purpose of reviewing these requirements.

Consult the child's placement history to determine when the child was placed in the child care institution.

31(a). If Question 31 is *YES*, is the child's stay in the placement longer than 14 days?

- Mark *N/A* if the child's placement is not a child care institution.
- Mark *YES* if the child is placed in the child care institution for longer than 14 calendar days.
- Mark *NO* if the child is not placed in the child care institution for longer than 14 calendar days.

Title IV-E agencies may claim up to 14 days of title IV-E foster care maintenance payments each time a child is placed in a child care institution on or after October 1, 2019, (or the title IV-E agency's delayed effective date). The agency may continue to claim title IV-E foster care maintenance payments after the child's 14th day of placement in the child care institution only if the child care institution is one of the specified placement settings described in § 472(k)(2) of the Act and also listed below in Question 31(b). The first day of the child's placement is considered day 1.

Example: A child is placed in a child care institution at 10 PM on April 4. April 4 is considered day 1. April 17 is considered day 14.

The 14-day setting limitations apply to new placements in child care institutions that are not one of the specified placement settings made on or after October 1, 2019, (or the title IV-E agency's delayed effective date). Title IV-E agencies may claim title IV-E foster care maintenance payments for more than 14 days for a child placed in a child care institution prior to the effective date of § 472(k) of the Act for as long as the eligible child continuously remains placed in that setting. If the child leaves this setting after the effective date of § 472(k) of the Act and enters a different non-foster family home setting, the title IV-E agency must apply § 472(k) of the Act (ACYF-CB-PI-18-07).

31(b). If Question 31(a) is *YES,* is the child care institution one of the specified placement settings as defined in § 472(k)(2) of the Act? Check all applicable settings describing this placement.

- Mark *N/A* if the child is not placed in a child care institution or if the answer to Question 31(a) is *NO*.
- Mark *YES* if the child care institution in which the child is placed for this placement period during the PUR is one of the settings listed below.
    - Child care institution specializing in providing prenatal, post-partum or parenting supports for youth
    - Child care institution specializing in providing services for children and youth at risk of becoming, or who are, sex trafficking victims
    - Supervised independent living setting for youth age 18 years or older
    - Qualified residential treatment program
- Mark *NO* if the child is not placed in one of these settings.

There are four types of child care institutions for which a title IV-E agency may claim a title IV-E foster care maintenance payment when the child has been placed in the child care institution for longer than 14 days: (1) a setting specializing in prenatal, post-partum, or parenting supports for youth; (2) a setting specializing in services for children and youth at risk of becoming, or who are, sex trafficking victims; (3) a supervised independent living setting for youth age 18 years or older; or (4) a qualified residential treatment program. *It is possible that the child care institution is classified as more than one type of child care institution; in that case, mark all that apply.* The title IV-E agency must provide an assurance or certification from the agency head that confirms the setting is consistent with one of these allowable child care institution settings. (Question 32 has additional information on a qualified residential treatment program.)

31(c). Are the general requirements met for the PUR for the child's placement in a child care institution on or after October 1, 2019, or the title IV-E agency's delayed effective date for § 472(k) of the Act?

- Mark *N/A* if the child is not placed in a child care institution.
- Review your answers for Questions 31, 31(a), and 31(b).
- Mark *YES* at Question 31(c) if the answers to Questions 31–31(b) are *YES;* the title IV-E agency has met these requirements for claiming title IV-E foster care maintenance payments for the child whose placement in a child care institution began on or after October 1, 2019, (or the agency's delayed effective date).
- Mark *NO* if the answers to Question 31 and 31(a) are *YES,* and the answer to Question 31(b) is *NO*; the agency has not met these requirements for claiming title IV-E while the child is placed in this placement setting.

31(c)(1). If Question 31(c) is *NO*, are title IV-E payments claimed for the period of ineligibility in the PUR?

- Mark *N/A* if the answer to Question 31(c) is *YES*.
- Mark *YES* if the answer to Question 31(c) is *NO* and title IV-E foster care maintenance payments are claimed for periods during the PUR for which the child is ineligible.

- Mark *NO* if the answer to Question 31(c) is *NO*, but the agency did not claim title IV-E foster care maintenance payments for the period of ineligibility.

When payments may begin and when payments must end: If the child is placed in the child care institution for more than 14 days, the title IV-E agency may claim title IV-E foster care maintenance payments only for the first 14 days of the placement. Day one of the 14-day placement limitation starts on the first day that the child is placed in the setting. Beginning with day 15, the agency may not claim title IV-E foster care maintenance unless the child's placement is in one of the settings specified in Question 31(b) or the eligible child was placed in the setting prior to October 1, 2019, (or the title IV-E agency's delayed effective date) and continuously remains placed in that setting.

If the 15th day (or after) falls during the PUR, the case will be an error case with ineligible payments that are disallowed. If the 15th day (or after) falls outside of the PUR, the case will be a non-error case with disallowed payments.

Record ineligible period(s) on the Improper Payment Chart (Appendix 2 of the Review Instrument).

32. If the child's placement during the PUR is a specified setting as described in § 472(k)(2) of the Act, please mark <u>the one type</u> that applies to this child's placement.

- Child care institution specializing in providing prenatal, post-partum or parenting supports for youth
- Child care institution specializing in providing services for children and youth at risk of becoming, or who are, sex trafficking victims
- Supervised independent living setting for youth age 18 years or older
- Qualified residential treatment program

Mark N/A if the child is not placed in a child care institution.

If the answer to Question 32 is *N/A* or is **not** a qualified residential treatment program, mark questions 32(a)–32(e)(1) *N/A* too because all of these pertain to the qualified residential treatment program type of placement.

32(a). If the answer to Question 32 is a qualified residential treatment program, did this placement begin on or after October 1, 2019, or the title IV-E agency's delayed effective date?

- Mark *N/A* if the child is not placed in a child care institution or the child care institution is not a qualified residential treatment program.
- Mark *YES* if the child's placement in the qualified residential treatment program began on or after October 1, 2019, or the title IV-E agency's delayed effective date.
- Mark *NO* if the child's placement in this setting began before October 1, 2019, or before the title IV-E agency's delayed effective date.

Note that for a child placed in a child care institution that meets qualified residential treatment program requirements during the child's stay, the date that the child care institution meets qualified residential treatment program requirements is the child's placement date into the qualified residential treatment program for title IV-E eligibility purposes.

Example: [Questions 32(a)(2)–32(d) that follow this example explain the qualified residential treatment program statutory provisions related to accreditation and the statutory protections that consist of the 30-day individualized assessment; the 60-day judicial review; and the agency head approval for placements in excess of 6 consecutive or nonconsecutive months for a child under 13 or 12 consecutive/18 nonconsecutive months for a child 13 and over.]

- *October 15, 2021*: A 16-year-old youth is placed in a child care institution after the title IV-E agency's delayed effective date. The child care institution is not a qualified residential treatment program.
- *October 15—October 28, 2021*: Agency may claim foster care maintenance payments for 14 days.
- *October 29, 2021*: This is the 15th day that the youth has been in the child care institution; the agency may not claim title IV-E foster care maintenance payments on behalf of the youth.
- *March 8, 2022*: Child care institution meets all qualified residential treatment program requirements, including accreditation and licensing. *This is the youth's placement date into the* qualified residential treatment program. The statutory "clock" begins for the statutory protections. Foster care maintenance payments may be claimed for the eligible child retroactively to March 1, 2022, because the child has resided in the child care institution since then and the placement is considered a qualified residential treatment program for the entire calendar month.
- *April 6, 2022*: Agency must have secured a 30-day individual assessment about the most appropriate placement for the child.
- *May 6, 2022*: Agency must have secured a 60-day judicial review that approves the continued placement of the child in order to continue claiming title IV-E foster care maintenance payments.
- *February 28, 2023*: This ends the 12th month of placement in the qualified residential treatment program. Agency must secure head of agency's signed approval in order to continue claiming beyond this date.

32(a)(1). Does the qualified residential treatment program fully meet the requirements of a qualified residential treatment program as defined in § 472(k)(4)(A)–(F) of the Act?

- Mark *N/A* if the child is not placed in a qualified residential treatment program.
- Mark *YES* if the placement setting is consistent with the definition of a qualified residential treatment program as specified at § 472(k)(4)(A)–(F) of the Act.
- Mark *NO* if the placement is not consistent with these provisions in the definition of a qualified residential treatment program.

In order to be considered a qualified residential treatment program, a child care institution must meet certain requirements delineated at § 472(k)(4)(A)–(F) of the Act and described in ACYF-CB-PI-18-07. These include but are not limited to: whether the qualified residential treatment program has a trauma-informed treatment model; has nursing staff that meets specific requirements; includes the child's family as described in the Act; and provides discharge planning. (See below for documentation requirements.)

32(a)(2). Is the qualified residential treatment program accredited by one of the independent, not-for-profit organizations specified and in accordance with § 472(k)(4)(G) of the Act?

- Mark *N/A* if the child's placement is not a qualified residential treatment program.

- Mark *YES* if the program is accredited for the entire period of the child's placement that covers the PUR.
- Mark *NO* if the qualified residential treatment program is not accredited for the entire PUR.
- Also record the dates (month/day/year) that the facility is accredited. If there are two accreditation periods that cover the PUR for the period of time that the child's placement is a qualified residential treatment program, enter both dates.

Note that the qualified residential treatment program needs to be accredited as described above, but the accrediting body does not have to accredit the facility as a qualified residential treatment program. In addition to the requirements at § 472(k)(4)(A)–(F) of the Act, a qualified residential treatment program must meet the requirements at § 472(k)(4)(G). The Act at § 472(k)(4)(G) requires that a qualified residential treatment program be licensed in accordance with the applicable state or Tribal standards, and accredited by an independent, not-for-profit accrediting body that the Secretary of HHS approves. (See below for documentation requirements. Licensing requirements are covered at Question 34.)

Documentation Requirements. Prior to, or during, the onsite title IV-E Review, the CB Review Leads will determine whether the child care institution meets the qualified residential treatment program requirements and will advise the review team. Documentation that the child care institution meets the requirements of a qualified residential treatment program may include, but is not limited to: a copy of the accreditation documentation, licensing agency checklist and/or other official documentation that verifies that the child care institution: (1) has a trauma-informed treatment model addressing serious emotional or behavioral disorders or disturbances; (2) has registered or licensed clinical staff available 24 hours a day, 7 days a week; (3) facilitates and documents appropriate family participation in the child's treatment; (4) provides discharge planning and family-based aftercare for 6 months after discharge and (5) is accredited by one of the independent, not-for-profit organizations delineated in federal statute or approved by the CB (HHS). Although the IV-E Review will verify that the title IV-E agency has furnished this documentation, the IV-E Review will not evaluate the substance of each qualified residential treatment program requirement.

When payments may begin and when payments must end: A title IV-E agency may claim title IV-E foster care maintenance payments on behalf of an otherwise eligible child for the entire month that a qualified residential treatment program is accredited, if: (1) the child was placed in the qualified residential treatment program for the entire month; and (2) all of the qualified residential treatment program requirements delineated at § 472(k)(4)(A)–(G) of the Act are met. A child care institution that is accredited as a qualified residential treatment program on any day in the month is considered to be accredited for the entire month. (See generally CWPM, section 8.3A.8c, QA#11.) However, if the child care institution that is accredited as a qualified residential treatment program loses its accreditation during the month, the child in that placement becomes ineligible beginning on the day of the month that the accreditation is suspended, revoked, or otherwise invalidated.

If the title IV-E agency claims title IV-E foster care maintenance payments for a period in which all of the requirements are not met in accordance with § 472(k)(4)(A) ─(G) of the Act, the child is not eligible for title IV-E foster care. If the period during which the child is not eligible and the ineligible period is outside the PUR, the sample case is a non-error case with ineligible payments that are disallowed. If the agency claims title IV-E foster care maintenance payment for a period in which the child is not eligible and the

ineligible period is in the PUR, the sample case is an error case with ineligible payments that are disallowed.

Record ineligible period(s) on the Improper Payment Chart (Appendix 2 of the Review Instrument).

32(b). Has the agency documented for the PUR, that within 30 days of the start of the child's placement into the qualified residential treatment program, a qualified individual completed an assessment of the appropriateness of the qualified residential treatment program?

- Mark *N/A* if the child is not placed in a qualified residential treatment program or if the 30-day assessment is not due because the child has not been in the placement for 30 days before the end of the PUR.
- Mark *YES* if the title IV-E agency has documented that a qualified individual conducted the assessment within 30 days of the child being placed in the qualified residential treatment program.
- Mark *NO* if the qualified individual did not conduct the assessment timely.
- Record the date (month/day/year) of the assessment.

Documentation Requirements: In order to determine that a "qualified individual" has assessed the child's placement in the qualified residential treatment program timely, the reviewer will confirm that the agency considers the individual to be a "qualified individual," and the date that the qualified individual made the assessment. The reviewer is not to assess the individual's qualifications nor the basis for the qualified individual's assessment.

32(b)(1) If Question 32(b) is NO, did the agency claim title IV-E for any of the dates that the child was in the qualified residential treatment program for the placement episode?

- Mark *N/A* if the child is not placed in a qualified residential treatment program.
- Mark *YES* if the title IV-E agency claimed title IV-E for any of the dates the child was in the qualified residential treatment program for the placement episode.
- Mark *NO* if the title IV-E agency did not claim title IV-E for any of the dates the child was in the qualified residential treatment program for the placement episode.

Within 30 days of the start of each placement in a qualified residential treatment program, the title IV-E agency must document that a qualified individual has assessed the child's needs and whether the child's placement in the qualified residential treatment program is appropriate for that child [§ 475A(c)(1)(A) of the Act]. The agency may secure the qualified individual's assessment prior to the child entering the qualified residential treatment program, but the assessment must be completed no later than by the end of the 30-day period (ACYF-CB-PI-18-07). Reviewers will not consider whether the individual who conducts the assessment is qualified, nor will reviewers consider whether the substance of the assessment is sufficient.

When payments may begin and when payments must end: The 30-day limitation starts on the first day of the child's placement in the qualified residential treatment program setting, regardless of whether the title IV-E agency has claimed title IV-E funds during the first 30 days (ACYF-CB-PI-18-07).

Example: A child is placed in a qualified residential treatment program on April 4 at 10 PM, but the title IV-E agency does not claim title IV-E funds until April 17. April 4 is day one for purposes of calculating when the assessment is due. The agency must secure the individual's qualified assessment no later than May 3.

If the qualified individual's assessment is not completed within 30 days, the title IV-E agency cannot claim title IV-E foster care maintenance payments for the entirety of the child's placement in the qualified residential treatment program, including not for the first 14 days as specified for child care institutions that are not qualified residential treatment programs [§§ 475A(c)(1)(A) and 472(k)(3)(A) of the Act and ACYF-CB-PI-18-07]. If the title IV-E agency claims title IV-E foster care maintenance payments for a period in which the child is not eligible and the ineligible period is outside the PUR, the sample case is a non-error case with ineligible payments that are disallowed. If the agency claims title IV-E foster care maintenance payments for a period in which the child is not eligible and the ineligible period is in the PUR, the sample case is an error case with ineligible payments that are disallowed.

Record ineligible period(s) on the Improper Payment Chart (Appendix 2 of the Review Instrument).

32(b)(2). If the assessment was completely timely, did the qualified individual recommend the placement as being appropriate?

- Mark *N/A* if the child is not placed in a qualified residential treatment program; if the 30-day assessment is not due because the child has not been in the placement for 30 days before the end of the PUR; or if the assessment was not completed timely.
- Mark *YES* if the title IV-E agency has documented that the qualified individual recommended the placement.
- Mark *NO* if the title IV-E agency has documented that the qualified individual did not recommend the placement.

32(b)(3). If the qualified individual completed the assessment timely and did not recommend the placement, did the IV-E agency claim title IV-E "transition payments"?

- Mark *N/A* if the child is not placed in a qualified residential treatment program.
- Mark *YES* if the IV-E agency claimed title IV-E transition payments.
- Mark *NO* if the agency did not claim title IV-E transition payments.

32(b)(3)(a). If the agency claimed title IV-E "transition payments," was the child's next placement one of the following: a return home; with a fit and willing relative; with a legal guardian; with an adoptive parent; or in a foster family home?

- Mark *N/A* if the agency did not claim title IV-E "transition payments."
- Mark *YES* if the agency claimed title IV-E "transition payments" and the child's next placement was a return home; with a fit and willing relative; with a legal guardian; with an adoptive parent; or in a foster home.
- Mark *NO* if the agency claimed title IV-E "transition payments" and the child's next placement was **not**: a return home; with a fit and willing relative; with a legal guardian; with an adoptive parent; or in a foster home.

If the answer is *NO*, the transition payments are disallowed. This is a potential error case if transition payments were incorrectly made during the PUR.

32(b)(3)(b). If Question 32(b)(3)(a) is *YES,* did the agency claim title IV-E "transition payments" for any dates that are more than 30 days after the qualified individual determined the placement was not appropriate?

- Mark *N/A* if the agency did not claim title IV-E transition payments for more than 30 days after the qualified individual determined the placement was not appropriate.
- Mark *YES* if the title IV-E agency claimed title IV-E transition payments for more than 30 days after the qualified individual determined the placement was not appropriate.

The reviewer should calculate and record the total number of days claimed on the instrument in the designated area. All claimed title IV-E payments that were made for the child's placement in the qualified residential treatment program more than 30 days after the date that the individual determined the placement was not appropriate are disallowed. Record ineligible periods on the attached Improper Payment Chart (Appendix 2).

- Mark *NO* if the title IV-E agency did not claim title IV-E transition payments for more than 30 days after the qualified individual disapproved the placement.

When payments may begin and when payments must end: If the qualified individual determines the qualified residential treatment program placement not appropriate, the title IV-E agency may claim title IV-E funds for up to an additional 30 days while the child transitions to one of the settings specified in § 472(k)(3)(B) of the Act, i.e., return home, placed with a fit and willing relative, a legal guardian, or an adoptive parent, or in a foster family home. The agency may not claim title IV-E for more than 30 days after the date that the qualified individual determined the qualified residential treatment program placement not appropriate.

If the title IV-E agency claims title IV-E foster care maintenance payments for a period in which the child is not eligible and the ineligible period is outside the PUR, the sample case is a non-error case with ineligible payments that are disallowed. If the agency claims title IV-E foster care maintenance payments for a period in which the child is not eligible and the ineligible period is in the PUR, the sample case is an error case with ineligible payments that are disallowed.

Record ineligible period(s) on the attached Improper Payment Chart (Appendix 2).

32(c). Has the agency documented for the PUR that a court or court-approved administrative body completed its review of the placement within 60 days?

- Mark *N/A* if the child is not placed in a qualified residential treatment program or if the 60-day review is not due because the child has not been in the placement for 60 days before the end of the PUR.
- Mark *YES* if the title IV-E agency has documented that the judicial determination, or administrative review of the child's placement in the qualified residential treatment program has been made within 60 days of the child's placement.
- Mark *NO* if the agency has not documented that a judicial or administrative review of the child's placement has been completed within 60 days of the child's placement into the qualified residential treatment program.

32(c)(1). If Question 32(c) is *YES*, did the court or court-approved administrative body approve the child's continued placement in the qualified residential treatment program?

- Mark *N/A* if the child is not placed in a qualified residential treatment program or if the 60-day review is not due because the child has not been in the placement for 60 days before the end of the PUR or the court or court-approved administrative body did not review the placement within 60 days of placement.
- Mark *YES* if the title IV-E agency has documented that the court or court-approved body approved the qualified residential treatment program.
- Mark *NO* if the court or court-approved body did not approve the child's continued placement in the qualified residential treatment program.

Enter the date the court or court-approved body approved or disapproved the qualified residential treatment program placement.

32(c)(2). If Question 32(c)(1) is *NO*, did the child remain in the qualified residential treatment program ?

- Mark *N/A* if the child is not placed in a qualified residential treatment program or if the 60-day review is not due because the child has not been in the placement for 60 days before the end of the PUR.
- Mark *YES* if the child remained in the qualified residential treatment program after the court or court-approved body did not approve continued placement in the qualified residential treatment program.
- Mark *NO* if the child did not remain in the qualified residential treatment program.

32(c)(3). If Question 32(c)(2) is *YES*, did the IV-E agency claim title IV-E "transition payments"?

- Mark *N/A* if the child is not placed in a qualified residential treatment program.
- Mark *YES* if the IV-E agency claimed title IV-E "transition payments."
- Mark *NO* if the agency did not claim title IV-E "transition payments."

32(c)(3)(a). If Question 32(c)(3) is *YES*, was the child's next placement: a return home; with a fit and willing relative; with a legal guardian; with an adoptive parent; or in a foster family home?

- Mark *N/A* if the agency did not claim title IV-E "transition payments."
- Mark *YES* if the agency claimed title IV-E "transition payments" and the child's next placement was a return home; with a fit and willing relative; with a legal guardian; with an adoptive parent; or in a foster home.
- Mark *NO* if the agency claimed title IV-E "transition payments" and the child's next placement was **not**: a return home; with a fit and willing relative; with a legal guardian; with an adoptive parent; or in a foster home.

If the answer is *NO*, the transition payments are disallowed. This is a potential error case if transition payments were incorrectly made during the PUR.

32(c)(3)(b). If Question 32(c)(3)(a) is *YES*, did the agency claim title IV-E "transition payments" for more than 30 days after the disapproval date?

- Mark *N/A* if the child is not placed in a qualified residential treatment program; if the 60-day review is not due because the child has not been in the placement for 60 days before the end of the PUR; or if the court approved the placement.
- Mark *YES* if the title IV-E agency claimed title IV-E foster care maintenance payments in the qualified residential treatment program for more than 30 days after the disapproval date.

The reviewer should calculate and record how many days the child remained in the qualified residential treatment program after the date of disapproval. The reviewer should calculate and record the total number of days claimed on the instrument in the designated area.

- Mark *NO* if the agency did not claim title IV-E foster care maintenance payments for more than 30 days after the disapproval date.

Documentation Requirements: Within 60 days of the start of each placement in a qualified residential treatment program, the title IV-E agency must document that a court or court-approved administrative body has considered the qualified individual's assessment of the appropriateness of the qualified residential treatment program for the child; determined whether the child's needs can be met in a foster family home or qualified residential treatment program; and approved or disapproved the placement [§§ 472(k)(1)(B) and 475A(c)(2) of the Act]. In order to document that the agency has satisfied this requirement, the agency must provide an official determination that memorializes the approval or disapproval and includes the information and assessments described above. Such documentation could include a court order or a written report of the court or appointed administrative body. Reviewers will not consider whether the court or court-approved administrative body's approval or disapproval decision on the qualified individual's assessment is appropriate.

When payments may begin and when payments must end: For the otherwise eligible child, the title IV-E agency may claim title IV-E funds for any period during the first 60 days of the child's placement in a qualified residential treatment program if it has documented whether the court or court-approved administrative body has approved or disapproved the child's placement within the first 60 days of the child's placement in the qualified residential treatment program. If, however, the court or administrative body does not make its decision regarding the qualified individual's assessment of the placement within the 60-day timeframe, or it disapproves the child's continued placement in the qualified residential treatment program, the title IV-E agency may claim title IV-E foster care maintenance payments only for the first 60 days of the placement in the qualified residential treatment program [§§ 472(k)(1)(B) of the Act and ACYF-CB-PI-18-07]. Note that this requirement applies regardless of when the agency begins to claim title IV-E funds on behalf of the child placed in the qualified residential treatment program. The 60-day restriction starts on the first day of placement in the qualified residential treatment program setting.

Example: A child is placed into a qualified residential treatment program at 11:30 PM on April 4, which is day one for purposes of calculating this requirement. The title IV-E agency does not claim title IV-E foster care maintenance payments until August 1. For purposes of meeting this requirement, the agency still must have secured the 60-day judicial review no later than June 2, even though it did not begin to claim title IV-E funds until well after the 60-day timeframe has passed.

If the judicial or administrative review approving the placement is not completed prior to the 61st day of the child's placement in the qualified residential treatment program, this requirement is not met. The title IV-E agency may only claim title IV-E foster care maintenance payments for the first 60 days of placement in the qualified residential treatment program [§ 472(k)(1)(B) of the Act].

If the court or court-approved administrative body does not approve such a placement (either because it disapproves the placement or did not make a timely determination) by the 60th day, as required by § 475A (c)(2), the title IV-E agency may only claim title IV-E funds for up to an additional 30 days if the child transitions to one of the placements specified in § 472(k)(3)(B) of the Act, i.e., return home, placed with a fit and willing relative, a legal guardian, or an adoptive parent, or in a foster family home.

Example: On August 1, the family court determines that the child's continued placement in the qualified residential treatment program is inappropriate and disapproves the placement. The agency determines that the child should be placed in a foster family home. Beginning on August 1, the title IV-E agency may claim title IV-E for up to 30 days while the child remains in the qualified residential treatment program, until August 30, in order to transition the child out of the qualified residential treatment program into the foster family home. The agency may not claim title IV-E funds as of August 31 if the child remains in the qualified residential treatment program.

If the title IV-E agency claims title IV-E foster care maintenance payments for a period in which the child is not eligible and the ineligible period is outside the PUR, the sample case is a non-error case with ineligible payments that are disallowed. If the agency claims title IV-E foster care maintenance payment for a period in which the child is not eligible and the ineligible period is in the PUR, the sample case is an error case with ineligible payments that are disallowed.

Record ineligible period(s) on the Improper Payment Chart (Appendix 2 of the Review Instrument).

32(d). If the child's placement in the qualified residential treatment program is longer than:

- **12 consecutive months, or 18 nonconsecutive months for a child aged 13 or older,**

  or
- **6 consecutive or nonconsecutive months for a child under age 13**

Has the title IV-E agency documented for the PUR that the title IV-E agency's chief executive has signed an approval for the continued placement in the qualified residential treatment program before the end of those specific timeframes?

- Mark *N/A* if the child is not placed in a qualified residential treatment program; if a child under 13 years of age has not been placed in the qualified residential treatment program for 6 consecutive or nonconsecutive months before the last day of the PUR; or if a child 13 years old or older has not been placed in the qualified residential treatment program for 12 consecutive, or 18 nonconsecutive months before the last day of the PUR.
- Mark *YES* if the title IV-E agency has documented the title IV-E agency's chief executive has signed an approval for the continued placement of the child in the qualified residential treatment program.
- Mark *NO* if the agency has not so documented.

32(d)(1). If Question 32(d) is *NO*, did the child remain in the qualified residential treatment program after the end of the 12th, 18th, or 6th month, as applicable?

- Mark *N/A* if the child is not placed in a qualified residential treatment program; if a child 13 years old or older has not been placed in the qualified residential treatment program for 12 consecutive, or 18 nonconsecutive months before the last day of the PUR; or if a child under 13 years of age has not been placed in the qualified residential treatment program for 6 consecutive or nonconsecutive months before the last day of the PUR.
- Mark *YES* if the child remained in the qualified residential treatment program after the end of the 12th, 18th, or 6th month, as applicable.
- Mark *NO* if the child did not remain in the qualified residential treatment program after the end of the 12th, 18th, or 6th month, as applicable.

If the child's placement in a qualified residential treatment program lasts longer than 12 consecutive months or 18 nonconsecutive months for a child age 13 or older, or 6 consecutive or nonconsecutive months for a child under age 13, the title IV-E agency must document the signature of the title IV-E agency's chief executive consenting to the continued placement of the child in that setting [§ 475A(c)(5) of the Act]. If the agency does not meet the time frame as required in federal statute, the title IV-E agency may claim title IV-E foster care maintenance payments only until the last day of the month of the specified time frame and therefore is expected to make the determination before then to extend the continued placement. The "clock" starts on the first day of placement in the setting and ends on the last day of the month of the applicable timeframe.

Example: If a 14-year-old child has been placed in the qualified residential treatment program continuously since January 15, the 12-month period would end on January 31 of the next year.

Documentation Requirements: In order to document that the title IV-E agency has satisfied this requirement regarding the child's continued placement in the qualified residential treatment program, it must furnish a signed letter or certification from the head of the agency approving or disapproving the child's continued placement in the qualified residential treatment program.

32(d)(2). If the title IV-E agency has documented for the PUR that the title IV-E agency's chief executive does not approve the child's continued placement in the qualified residential treatment program, before the end of those specific timeframes, did the child remain in the qualified residential treatment program after the end of the 12th, 18th, or 6th month, as applicable?

- Mark *N/A* if the title IV-E agency chief executive approved the child's continued placement or the IV-E agency did not timely approve the child's continued placement in the qualified residential treatment program**.**
- Mark *YES* if the child remained in the qualified residential treatment program after the end of the 12th, 18th, or 6th month.
- Mark *NO* if the child did not remain in the qualified residential treatment program after the end of the 12th, 18th, or 6th month, as applicable.

32(d)(3). If Questions 32(d)(1) or 32(d)(2) are *YES*, did the IV-E agency claim title IV-E "transition payments"?

- Mark *N/A* if the child is not placed in a qualified residential treatment program.
- Mark *YES* if the IV-E agency claimed title IV-E "transition payments."
- Mark *NO* if the agency did not claim title IV-E "transition payments."

32(d)(4). If the agency claimed title IV-E "transition payments," was the child's next placement: a return home; with a fit and willing relative; with a legal guardian; with an adoptive parent; or in a foster family home?

- Mark *N/A* if the agency did not claim title IV-E "transition payments."
- Mark *YES* if the agency claimed title IV-E "transition payments" and the child's next placement was a return home; with a fit and willing relative; with a legal guardian; with an adoptive parent; or in a foster home.
- Mark *NO* if the agency claimed title IV-E "transition payments" and the child's next placement was **not:** a return home; with a fit and willing relative; with a legal guardian; with an adoptive parent; or in a foster home.

If the answer is *NO*, the transition payments are disallowed. This is a potential error case if transition payments were incorrectly made during the PUR.

32(d)(5). If Question 32(d)(1) is *YES*, did the agency claim title IV-E "transition payments" for more than 30 days after the end of the 12th, 18th, or 6th month in which the agency head's approval was due?

- Mark *N/A* if the child is not placed in a qualified residential treatment program; if a child under 13 years of age has not been placed in the qualified residential treatment program for 6 consecutive or nonconsecutive months before the last day of the PUR; or if a child 13 years old or older has not been placed in the qualified residential treatment program for 12 consecutive, or 18 nonconsecutive months before the last day of the PUR.
- Mark *YES* if the agency claimed title IV-E transition payments for more than 30 days after the date of disapproval or 30 days after the end of the 12th, 18th, or 6th month when the agency head's approval was due.

The reviewer should calculate and record the number of days that transition payments were made beyond the allowable 30 days after the end of the 12th, 18th, or 6th month in which the agency approval was due. Those payments are likely disallowed/in error.

- Mark *NO* if the agency did not claim title IV-E "transition payments" for more than 30 days after the end of the 12th, 18th, or 6th month, as applicable.

When payments may begin and when payments must end: The title IV-E agency may claim title IV-E on behalf of an otherwise eligible child when it has timely met requirements related to: (1) the 30-day qualified individual assessment; (2) the 60-day judicial review; and (3) chief executive approval for a placement lasting more than 12 consecutive months; more than 18 nonconsecutive months; or more than six consecutive or nonconsecutive months for a child under age 13.

If the title IV-E agency's chief executive does not timely approve the child's continued placement for a longer term, or the agency's chief executive disapproves the child's continued placement in the qualified residential treatment program, the agency must stop claiming title IV-E as of the last day of the month in which the chief executive is required to make the determination for the specified timeframe, or the last day of the month in which the chief executive disapproves the child's continued placement.

If the title IV-E agency claims title IV-E foster care maintenance payments for a period in which the child is not eligible and the ineligible period is outside the PUR, the sample case is a non-error case with ineligible payments that are disallowed. If the agency claims title IV-E foster care maintenance payment for a period in which the child is not eligible and the ineligible period is in the PUR, the sample case is an error case with ineligible payments that are disallowed.

Record ineligible period(s) on the Improper Payment Chart (Appendix 2 of the Review Instrument).

Documentation Requirements: In order to demonstrate that the title IV-E agency has satisfied the requirement of the agency chief executive's approval or disapproval of the child's placement in the qualified residential treatment program, it may submit whatever official document memorializes the approval or disapproval of the child's placement into, or continued placement in, the qualified residential treatment program.

32(e). Are the requirements met for the child's placement in a qualified residential treatment program during the PUR?

- Mark *N/A* if the child is not placed in a qualified residential treatment program. This question summarizes whether the title IV-E agency has met the requirements detailed in the Question 32 series.
- Mark *YES* if the agency has met all of the requirements for a child placed in a qualified residential treatment program.
- Mark *NO* if the agency has not met all of the requirements.

32(e)(1). If Question 32(e) is *NO*, are title IV-E payments claimed for the period of ineligibility in the PUR?

- Mark *N/A* if the child is not placed in a qualified residential treatment program or if Question 32(e) is answered YES.
- Mark *YES* if the answer to Question 32(e) is *NO* and the title IV-E agency claimed title IV-E payments for the period of ineligibility.
- Mark *NO* if the agency did not claim title IV-E payments for the period of ineligibility.

When payments may begin and when payments must end: The title IV-E agency may claim title IV-E in accordance with the requirements described in Questions 32(b)–(d) but must stop claiming if one of the entities disapproves the placement. However, the title IV-E agency may claim up to 30 days of title IV-E foster care maintenance payments to transition a child from the qualified residential treatment program when: (1) the qualified individual or court/court-appointed administrative body, or agency head determines the qualified residential treatment program is not appropriate [§ 475A(c)] and the child is returned home or placed with a fit and willing relative, a legal guardian, an adoptive parent, or in a foster family home [§ 472(k)(3)(B) of the Act]. Title IV-E claims for foster care maintenance payments must end

on the 31st day if the child remains placed in the qualified residential treatment program during the transition period. The 30-day period begins on the date a determination is made that the placement is no longer recommended or approved for the child or, if the determination is not made timely, on the date that such a determination was due. On the 31st day after the disapproval, title IV-E claims are ineligible.

If the title IV-E agency continues to pay title IV-E for more than 30 days after the child's placement in the qualified residential treatment program has been disapproved, the child becomes ineligible for title IV-E. If those payments have been claimed for a period in the PUR, the sample case will be in error with ineligible payments that are disallowed. If the agency claims title IV-E foster care maintenance payments for a period in which the child is not eligible and the ineligible period is outside the PUR, the sample case is a non-error case with ineligible payments that are disallowed.

Record ineligible period(s) on the Improper Payment Chart (Appendix 2 of the Review Instrument).

33. If the child's placement during the PUR is a residential family-based treatment facility for substance abuse, does the child's placement begin on or after October 1, 2018?

- Mark *N/A* if the child's placement is a foster family home or a child care institution.
- Mark *YES* if the child is placed in a residential family-based treatment facility for substance abuse on or after October 1, 2018.
- Mark *NO* if the child is placed in the facility prior to October 1, 2018.

As of October 1, 2018, the Family First Act allowed a title IV-E agency to claim title IV-E payments for a different type of placement setting that is a residential family-based substance abuse treatment facility in which a child lives with the parent in the facility while in foster care. Such a placement is neither a foster family home nor a child care institution, but instead, is a unique type of placement that has distinct requirements.

33(a). Is the residential family-based treatment facility for substance abuse fully licensed for the period of the child's stay in this placement that falls within the PUR?

- Mark *N/A* if the child is not placed in a residential family-based treatment facility for substance abuse.
- Mark *YES* if the facility is fully licensed.
- Record the dates (month/day/year) of the facility's period of licensure. If there are two licenses that cover the entire PUR during the time that the child is placed there, enter the dates of both periods.
- Mark *NO* if the title IV-E agency has not presented documentation to demonstrate that the facility is fully licensed during the entire time that the child is placed there during the PUR.

The title IV-E agency may claim title IV-E foster care maintenance payments on behalf of a child placed with the child's parent in a residential family-based treatment facility only if the facility is fully licensed for the entire period of claiming on behalf of the child placed there. The facility may be licensed by whichever entity within the state or Tribe is responsible for licensing such facilities; it need not be licensed as a child care institution or by the entity responsible for licensing child care institutions.

Documentation Requirements: The title IV-E agency must present a copy of the provider license, certificate, letter of approval or other official evidence of permission that verifies licensure status and type throughout the child's stay in the placement, even when the facility is located in another jurisdiction. The licensing documentation must reflect the name of the residential family-based treatment facility where the child is placed, whether the placement is fully licensed, and period of licensure.

33(a)(1). If Question 33(a) is *NO*, are title IV-E payments claimed for the period of ineligibility in the PUR?

- Mark *N/A* if the child is not placed in a residential family-based treatment facility for substance abuse or the answer to Question 33(a) is *YES*.
- Mark *YES* to Question 33(a)(1) if the answer to Question 33(a) is *NO* and the title IV-E agency claimed title IV-E foster care maintenance payments for the period of time that the facility is not licensed.
- Mark *NO* if the agency did not claim title IV-E payments for that ineligible period.

When payments may begin and when payments must end: The title IV-E agency may claim title IV-E foster care maintenance payments for the entire month on behalf of an otherwise eligible child that is placed in a licensed, residential family-based treatment facility for substance abuse if the provider is fully licensed for at least one day of the month, unless the licensing status is lost during the month.

If the treatment facility's license expires or is not renewed timely, reviewers will consider the governing licensing agency's policy regarding when and how licenses expire. If the licensing agency's law, policy, or regulation allows a residential family-based treatment facility for substance abuse to remain fully licensed when the license lapses or expires, then the facility is considered fully licensed for purposes of title IV-E eligibility. In contrast, if licensing mandates are silent on continuous licensure, the residential family-based treatment facility for substance abuse is not considered fully licensed for title IV-E eligibility.

If during a month, the treatment facility's license lapses or expires on its own terms and the facility is not considered fully licensed in accordance with the licensing agency's requirements, the child is ineligible beginning on the first day of the next month if the child remains in the placement until such time (see generally CWPM at 8.3A.8c, Question 17). The otherwise eligible child placed in such facility can become eligible again under title IV-E for the entire month in which the residential family-based treatment facility for substance abuse comes into full compliance with the licensing requirements. If the license is suspended, revoked, or otherwise invalidated because the licensing agency determines that the treatment facility is not meeting a requirement for full licensure, the child in that placement becomes ineligible beginning on the day of the month that the license is invalidated for non-conformity with a licensing requirement (see generally CWPM at 8.3A.8c, Question 16). The otherwise eligible child placed in such facility can become eligible again under title IV-E for the entire month in which it comes into full compliance with the licensing requirements.

If the title IV-E agency claims title IV-E foster care maintenance payments for a period in which the child is not eligible and the ineligible period is outside the PUR, the sample case is a non-error case with ineligible payments that are disallowed. If the agency claims title IV-E foster care maintenance payment for a period in which the child is not eligible and the ineligible period is in the PUR, the sample case is an error case with ineligible payments that are disallowed.

Record ineligible period(s) on the Improper Payment Chart (Appendix 2 of the Review Instrument).

33(b). Are title IV-E payments claimed for more than 12 months for the period of the child's stay in the residential family-based treatment facility for substance abuse that falls within the PUR?

- Mark *N/A* if the child is not placed in a residential family-based treatment facility for substance abuse or the child has not been in the placement for more than 12 months before the end of the PUR.
- Mark *YES* if the child has been in the placement for more than 12 months and the title IV-E agency claimed title IV-E foster care maintenance for periods after 12 months of the child's stay in the placement that falls within the PUR.
- Mark *NO* if the agency did not claim title IV-E for more than 12 months for the period of stay.

If the child's placement is in a licensed, residential family-based substance abuse treatment facility, consistent with § 472(j) of the Act, the title IV-E agency may claim title IV-E foster care maintenance payments for up to 12 months [§ 472(k)(2)(A) of the Act] each time a child is placed in this type of setting. The placement setting must meet all the requirements specified in statute.

When payments may begin and when payments must end: The title IV-E agency may claim title IV-E foster care maintenance payments until the last day of the 12th month of the placement in a licensed, residential family-based substance abuse treatment facility. The "clock" for the 12 months begins to run on the first day of the placement with the parent in this type setting. The clock restarts with each new placement into a licensed, residential family-based substance abuse treatment facility [§ 472(j)(1) of the Act].

Example: A child is placed with the child's parent in a licensed, residential family-based treatment facility for substance abuse in June. The child remains there for 2 months until August at which time the title IV-E agency places the child in a licensed foster family home. In November, the child is again placed with the parent in the same or in a different family-based treatment facility for substance abuse. The title IV-E agency may claim title IV-E payments on behalf of the otherwise eligible child for 12 months beginning in November.

Example: A child is placed with the child's parent in a licensed, residential family-based treatment facility for substance abuse in June. The title IV-E agency claims title IV-E payments while the child and parent remain there for 11 months. In May of the following year, the child and parent move to a different family-based residential treatment facility for substance abuse. The agency may claim title IV-E payments on behalf of the otherwise eligible child for 12 months beginning in May while the child and parent reside there.

The "clock" for the 12 months ends on the last day of the 12th month, regardless of the day in the month that the child is placed with the parent in that facility 12 months prior. For example, if a child is placed in the licensed, residential family-based treatment facility for substance abuse with the parent on January 10th, the 12-month period would end on January 31st of the next year.

If the title IV-E agency continues to pay title IV-E for more than 12 months after the child's placement in the licensed, residential family-based substance abuse treatment facility, the child becomes ineligible for title IV-E. If those payments are claimed for a period outside the PUR, the sample case is a non-error case with ineligible payments that are disallowed. If the agency claims title IV-E foster care maintenance payments for a period in which the child is not eligible and the ineligible period is in the PUR, the sample case is an error case with ineligible payments that are disallowed.

Record ineligible period(s) on the Improper Payment Chart (Appendix 2 of the Review Instrument).

34. Is the child's placement fully licensed during the child's stay in the foster family home or child care institution that falls within the PUR?

- Mark *N/A* if the child is placed in a supervised independent living placement setting; in a residential family-based treatment facility for substance abuse; or "*Other*" is the response to Question 30(d) for the placement setting during the PUR.
- Mark *YES* if the child's placement is a foster family home or child care institution and that foster family home or child care institution is fully licensed during the child's stay in the foster care placement that falls within the PUR.
- Record the dates (month/day/year) of the periods of licensure that cover the child's stay during the entire PUR. If there are two licenses that cover the PUR, enter the date of both of the relevant licenses.
- Mark *NO* if the foster family home or child care institution is not fully licensed during that period.

To be eligible for title IV-E foster care maintenance payments, the child must be in a foster care placement that meets the standards for full licensure or approval established by the licensing agency of the state or Tribe where the foster care placement is located [§§ 472(b) & (c) of the Act]. The title IV-E agency must document that the child's foster care placement is fully licensed for the duration of the child's placement in the PUR, even when the placement is an out-of-jurisdiction foster care setting. For the IV-E Review, the term "fully licensed" refers to foster care settings that are officially designated by the licensing agency as meeting all of the applicable licensing requirements for full licensure, approval, certification, or other synonymous term (45 CFR § 1355.20, "foster family home," and CWPM at 8.3A.8c).

The reviewer may not verify the title IV-E agency's compliance with the title IV-E plan requirement that prohibits the foster parent from providing care in the foster family home to more than six children in foster care unless a statutory exception applies [472(c)(1)(A)(ii)(III) of the Act]. If the CB becomes aware that a title IV-E agency is issuing foster family home licenses in violation of the numerical restriction, the CB will consider this a title IV-E plan issue that could result in a partial review and financial penalty pursuant to 45 CFR § 1355.32(d).

Documentation Requirements. Licensing documentation for the foster family home or child care institution where the child resides during the PUR must include a copy of the provider license, certificate, letter of approval, or other official evidence of permission that verifies licensure status and type throughout the child's stay in the placement, even when the foster care provider is located in another jurisdiction. The licensing documentation must reflect the name of the foster parent(s) with whom the child is placed, or the name of the child care institution where the child is placed, whether the placement is fully licensed and period of licensure.

34(a). If Question 34 is *NO*, are title IV-E funds claimed for the period in the PUR the foster family home or child care institution is not fully licensed?

- Mark *N/A* if the answer to Question 34 is *N/A* or *YES*.
- Mark *YES* to Question 34(a), if the title IV-E agency has claimed title IV-E foster care maintenance payments for a period in the PUR when the foster care provider is not fully licensed.
- Mark *NO* if the agency has not claimed title IV-E foster care maintenance payments for the period during the PUR when the provider is not fully licensed.

When payments may begin and when payments must end: The title IV-E agency may claim title IV-E foster care maintenance payments for the entire month on behalf of an otherwise eligible child who is placed in a foster family home or child care institution if the provider is fully licensed for at least one day of the month unless the licensing status is lost during the month.

If the foster family home or child care institution license expires or is not renewed timely, reviewers will consider the governing licensing agency's policy regarding when and how licenses expire. If the licensing agency's law, policy, or regulation allows a foster family home or child care institution to remain fully licensed when the license lapses or expires, then the foster care placement is considered fully licensed for purposes of title IV-E eligibility. In contrast, if licensing mandates are silent on continuous licensure, the foster family home or child care institution is not considered fully licensed for title IV-E eligibility.

If during a month, the foster family home or child care institution's license lapses or expires on its own terms and is not considered fully licensed in accordance with the licensing agency's requirements, the child is ineligible beginning on the first day of the next month if the child remains in the placement until such time (CWPM at 8.3A.8c, Question 17). The otherwise eligible child placed in such foster care setting can become eligible again under title IV-E for the entire month in which the foster care setting comes into full compliance with the licensing requirements. If a foster care placement's license is suspended, revoked, or otherwise invalidated because the licensing agency determines that the foster care placement is not meeting a requirement for full licensure, the child in that placement becomes ineligible beginning on the day of the month that the license is invalidated for non-conformity with a licensing requirement (CWPM at 8.3A.8c, Question 16).

If the title IV-E agency claims title IV-E foster care maintenance payments for a period in which the child is not eligible and the ineligible period is outside the PUR, the sample case is a non-error case with ineligible payments that are disallowed. If the agency claims title IV-E foster care maintenance payment for a period in which the child is not eligible and the ineligible period is in the PUR, the sample case is an error case with ineligible payments that are disallowed.

Record ineligible period(s) on the Improper Payment Chart (Appendix 2 of the Review Instrument).

N. SAFETY REQUIREMENTS

[Statutory Citation: § 471(a)(20) of the Act; Regulatory Citation: 45 CFR §§ 1355.20, 1356.30, and 1356.71(d)(1)(iv)]

Complete for the placement reviewed at Question 34 in Section M. If the child has multiple placements during the PUR, complete a separate Licensing/Safety Checklist for Multiple Foster Care Placements, Appendix 1 of the Review Instrument, for each placement.

General instructions for a child placed in a foster family home. In order for the title IV-E agency to claim title IV-E foster care maintenance payments on behalf of an otherwise eligible child, the foster family home where the child is placed must comport with the criminal records check requirements described at § 471(a)(20)(A) of the Act; 45 CFR § 1356.30; and ACYF-CB-PI-10-02 or for former opt out states, the background safety requirements described in 45 CFR § 1356.30(e) and ACYF-CB-PI-10-02.

The title IV-E agency must document that each foster parent named on the foster family home license meets the applicable criminal records check requirements, or background safety requirements (for former opt out states), for the period that the title IV-E foster care maintenance payments are claimed on behalf of the child residing in that foster family home during the PUR.

§ 471(a)(20)(A) of the Act requires that the criminal records check requirements for prospective foster parents be met prior to licensure. However, reviewers will not assess whether the foster family home has met the applicable requirements prior to the home being licensed as it is not a title IV-E eligibility requirement. Similarly, reviewers will not assess whether the title IV-E agency has checked any child abuse and neglect registries for prospective foster parents.

Criminal records check requirements differ depending on when the foster family home is newly licensed. In addition to a first-time license, a "newly licensed" foster family home is one where: (1) the previous license expires and cannot be renewed pursuant to the licensing authority's requirements; or (2) the previous license is terminated or otherwise rescinded for any reason. In those cases, foster parent(s) are considered "prospective" with any new application for licensure, and a new criminal records check or background safety checks for former opt out states must be conducted in connection with the new license. Reviewers must examine each license and licensing period to determine which documentation requirements related to background safety apply to a foster family home.

A license alone is not sufficient documentation of compliance with the applicable background safety requirement. The title IV-E agency must provide documentation of the type described below, it must demonstrate that a foster family home has met applicable safety requirements (dependent on whether the state opted in or opted out), and it must demonstrate that the applicable requirement was met satisfactorily for the period for which the foster care maintenance payment was made on behalf of the child in the foster care placement during the PUR. Once it is determined that the applicable safety requirement was met for the PUR, the reviewer may not verify subsequent compliance with the requirement during the licensing renewal process.

Foster family homes that were newly licensed prior to October 1, 2008: Reviewers will need to know whether the title IV-E agency: (1) opted into the criminal records check requirement at 45 CFR § 1356.30(a) on or after November 19, 1997, but before October 1, 2008, or the title IV-E agency's delayed effective date to implement the fingerprint-based check of the national crime information databases (NCID); or (2) opted-out of those requirements, and instead established its own safety requirements per 45 CFR § 1356.30(e).

For states that did not opt out of federal criminal records check requirements of November 1997: Reviewers will need to verify that the title IV-E agency completed a criminal records check of the foster family home at the local, state, or federal level prior to claiming title IV-E on behalf of the child placed in the home.

The 1997 criminal records check requirements authorized by § 471(a)(20)(A) of the Act and 45 CFR § 1356.30(a) mandate the state to have conducted a criminal records check for foster parents who were newly licensed or approved on or after November 19, 1997 (the effective date of the enactment of the law) or the state's approved delayed effective date for the 1997 requirement. The criminal records check may be conducted at either the local, state, or federal law enforcement level. The authority requiring the criminal records check ended on October 1, 2008, or on the state's approved delayed effective date for implementing the fingerprint-based criminal records check requirement.

For states that opted out of federal criminal records check requirement of November 1997: Reviewers will need to know what the state mandated [per 45 CFR § 1356.30(e)] for safety requirements for foster parents who were newly licensed on or after March 27, 2000, but before October 1, 2008, (or the title IV-E agency's delayed effective date). Prior to the onsite review, the title IV-E agency will document this information. The CB Review Leads will advise the reviewers of the relevant requirements during the onsite review.

Federal regulations at 45 CFR § 1356.30(e) permitted a state to opt out of the November 1997 criminal records check requirement at 45 CFR § 1356.30. Opt-out states were exempt from § 471(a)(20)(A) of the Act and 45 CFR § 1356.30(a) until October 2008. A state may have opted out by notifying the Secretary of HHS or enacting state legislation to comply. If the state had opted out of the criminal records check requirement of 1997, the state must have ensured that the safety measures pertaining to background checks established by the licensing agency in accordance with 45 CFR § 1356.30(e) had been fully addressed for a foster parent who was newly licensed or approved on or after November 19, 1997 (the effective date of the enactment of the law) or the state's approved delayed effective date for the 1997 requirement. The state was responsible for determining the type of background checks necessary to meet the safety standards established by the state. The authority permitting states to opt out of the 1997 criminal records check requirement ended on October 1, 2008, or on the state's delayed effective date for implementing the fingerprint-based criminal records check requirement.

For foster family homes that were newly licensed on or after October 1, 2008, (or the title IV-E agency's delayed effective date): Reviewers will determine whether the title IV-E agency completed a fingerprint-based check of the NCID.

The Adam Walsh Child Protection and Safety Act of 2006 was signed into law on July 27, 2006, and amended § 471(a)(20) of the Act to require States to institute procedures for conducting criminal records checks of foster parents. Consequently, a state's procedures for criminal record checks of newly licensed foster parents as specified in § 471(a)(20) of the Act must include conducting fingerprint-based checks of the NCID for the foster parent. The law also removed a state's ability to opt out of the criminal records check requirement.

General documentation requirements for a child placed in a foster family home.

The documentation requirements for the criminal records check, or background safety requirements (for former opt out states) for foster family homes differ based on whether a foster parent becomes newly licensed before or after October 1, 2008, (or the title IV-E agency's delayed effective date). The reviewer, therefore, must examine each new license and licensing period to determine which criminal records check or background safety documentation requirements apply to a foster family home for the PUR. Note that a license alone is not sufficient verification of compliance with the applicable safety requirement.

For purposes of the IV-E Review, a "completed" safety or criminal record check means one for which the title IV-E agency has received and addressed the results of the checks from the relevant authority conducting the check as follows:

- For a former opt-out state, documentation must be consistent with requirements related to safety requirements that the state has established pursuant to 45 CFR § 1356.30(e).
- For an opt-in state, documentation must reflect that a local, state, or federal criminal records check has been completed pursuant to 45 CFR § 1356.30(a).
- For a foster family home that is newly licensed on or after October 1, 2008, (or the delayed effective date), documentation must reflect that a fingerprint-based check of the NCID is completed, and the title IV-E agency has analyzed the results. See § 471(a)(20)(a).

The preferred documentation to demonstrate that the title IV-E agency has complied with the background safety or criminal records check requirement are the actual results of the relevant checks. However, other acceptable documentation may include official material, such as a letter or report signed by

appropriate licensing staff that details the results of the background checks or electronic data maintained in the title IV-E agency's automated information system that records the results of the evidence examined to determine compliance with the governing safety requirements.

The documentation must clearly specify: (1) the background safety check(s) completed, (2) the date completed, (3) the name of the foster parent(s) on whom the background safety check is completed, (4) the evidence reviewed, and (5) official authentication of the check, such as an agency signature or the name of the official completing or furnishing the results of the background check. A general statement that simply declares something like "the criminal records checks were completed, and persons cleared" is not sufficient documentation. The results of a background safety check must be tied to the specific foster parent. A request for a background safety check without the results of the record search is not sufficient documentation of compliance.

The Federal Bureau of Investigation (FBI) has made clear that title IV-E agencies are not prohibited from disseminating criminal history record information (CHRI) to governmental agencies that have audit and oversight responsibilities. The CB is one such agency. The FBI has addressed this issue in its publication: *National Crime Prevention and Privacy Compact Council's Noncriminal Justice Online Policy Resource—Dissemination of FBI Criminal History Record Information for Noncriminal Justice Purposes* (2015). Therefore, a law or practice governing the title IV-E agency that prohibits dissemination of CHRI records to the CB for purposes of the IV-E Review is not sufficient reason to exclude review of these records. The title IV-E agency is expected to make available to review team members the results provided them through the criminal background checks completed for foster care parents, regardless of whether the agency has a negative finding on this issue from a previous FBI audit.

For title IV-E eligibility purposes, once the title IV-E agency has documented that the relevant criminal record or safety check has been completed prior to claiming title IV-E for the PUR, it is not required to provide any additional or future information related to these checks, regardless of state law or policy; reviewers may not request such documentation.

The documentation requirements apply to a child's foster care placement during the PUR regardless of the jurisdiction in which the foster care placement is located. Therefore, if the child is placed in an out-of-state foster family home, the title IV-E agency must provide documentation consistent with the type described above. That is, the documentation must verify that the foster parent(s) where the child is placed during the PUR has complied with the criminal records check, or background safety requirements (for former opt-out states) established by the jurisdiction in which the foster care provider is located. The documentation will be accepted based upon the degree to which the documentation clearly specifies the safety measures completed, the date completed, and the evidence reviewed.

35. Is the child's placement during the PUR a foster family home?

- Mark *YES* if the child's placement reviewed in Section M, Question 34, is a foster family home.
- Mark *NO* if the child's placement is not a foster family home.
- If the answer to Question 35 is *NO*, mark *N/A* for Questions 35(a)–35(c)(1). If *YES*, answer Question 35(a), 35(b) or 35(c), as appropriate, and the applicable sub-questions.

35(a). If the foster family home is newly licensed before October 1, 2008, or the title IV-E agency's delayed effective date, and the title IV-E agency had not "opted out" of the 1997 criminal records check requirement, is a criminal records check completed satisfactorily on the foster parent(s)? Questions 35(a) and (a)(1) apply to: (1) a title IV-E agency that opted into the criminal record check requirements between November 19, 1997, and October 1, 2008, (or the title IV-E agency's delayed effective date for the fingerprint-based check); and (2) the foster family home in which the child was residing during the PUR was newly licensed before October 1, 2008, and remained continuously licensed.

- Mark *N/A* if these do not apply, or the child is not placed in a foster family home.
- Mark *YES* if the title IV-E agency documented completion of a criminal records check of the foster parent(s) identified on the foster family home's license. The criminal records check must be completed at the local, state, or federal law enforcement level prior to the title IV-E agency claiming of title IV-E on behalf of the child placed in the home.
- Mark *NO* if the agency does not document that it completed a criminal records check on the foster parent(s) in accordance with federal requirements.

For purposes of the IV-E Review, the criminal records check requirement is considered satisfied for the PUR for foster family homes newly licensed between November 19, 1997, and October 1, 2008, (or the title IV-E agency's approved delayed effective date for the fingerprint-based check in either case) if the documentation clearly verifies that: (1) a criminal records check is completed at either the local, state or federal law enforcement level, regardless of the licensing agency's requirements for these homes; (2) the foster parent has not been convicted of any of the prohibited felonies listed under § 471(a)(20)(A)(i) and (ii) of the Act; and (3) title IV-E maintenance payments are not claimed for a period in the PUR prior to these conditions being met. For foster family homes, federal requirements mandate the title IV-E agency to document the results of a criminal records check [45 CFR § 1356.30(b) and (c) and ACYF-CB-PI-10-02]. If the title IV-E agency does not meet the requirements as prescribed, the child is not eligible for title IV-E while placed in the foster family home.

35(a)(1). If Question 35(a) is *NO*, are title IV-E funds claimed for the period in the PUR the criminal records check requirement is not satisfied for the foster parent(s)?

- Mark *N/A* if the answer to Question 35(a) is *YES*.
- Mark *YES* if the answer to Question 35(a) is *NO* and the title IV-E agency claimed title IV-E foster care maintenance payments for the period the criminal records check is not completed satisfactorily.
- Mark *NO* if the agency did not claim title IV-E foster care maintenance payments for the ineligible period.

When payments may begin and when payments must end. If the title IV-E agency claims title IV-E foster care maintenance payments for a period in which the child is not eligible and the ineligible period is outside the PUR, the sample case is a non-error case with ineligible payments that are disallowed. If the agency claims title IV-E foster care maintenance payment for a period in which the child is not eligible and the ineligible period is in the PUR, the sample case is an error case with ineligible payments that are disallowed. These claims will be disallowed from the day in the month in which the requirement is not met.

Record ineligible period(s) on the Improper Payment Chart (Appendix 2 of the Review Instrument).

35(b). If the foster family home is newly licensed before October 1, 2008, or the title IV-E agency's delayed effective date, and the title IV-E agency had "opted out" of the 1997 criminal records check requirement, are the safety requirements per 45 CFR § 1356.30(e) completed satisfactorily on the foster parent(s)? Questions 35(b) and (b)(1) apply to: (1) a title IV-E agency that opted out of the November 1997 CRC requirement at 45 CFR § 1356.30(a), and (2) the foster family home in which the child was residing during the PUR was newly licensed on or after March 27, 2000 (or the title IV-E agency's delayed effective date), but before October 1, 2008, and remained continuously licensed.

- Mark *N/A* if these conditions do not apply, or the child is not placed in a foster family home.
- Mark *YES* if the title IV-E agency documented completion of the safety check(s) in accordance with the licensing agency's requirements established to comply with 45 CFR § 1356.30(e).
- Mark *NO* if the agency did not document completion of each required check. If the safety checks are not met as required, the child is not eligible for title IV-E while placed in the foster family home.

For a title IV-E agency that opted out of the November 1997 CRC requirement at 45 CFR § 1356.30(a), the state must have ensured that each of the safety requirements established by the licensing agency in accordance with 45 CFR § 1356.30(e) is fully addressed for a foster parent who is newly licensed on or after March 27, 2000, but before October 1, 2008, or the title IV-E agency's approved delayed effective date to implement the fingerprint-based check of the national crime information databases (NCID). The licensing agency where the foster family home is located is responsible for determining the type and frequency of background checks necessary to meet the established safety requirements. The licensing agency's safety requirements in effect at the time that the home is licensed determine what safety check is required.

The IV-E Review will examine the governing licensing agency's policies to determine how to review for the safety requirements under 45 CFR § 1356.30(e). Accordingly, reviewers will examine the title IV-E agency's documentation to determine: (1) whether all of the licensing agency's established policies are fully completed; and (2) whether the safety check requirements are satisfied completely for the period in the PUR the title IV-E foster care maintenance payment is made for the child residing in the foster family home. For example, if the licensing agency's safety policy requires a check of the state child abuse registry, domestic violence registry and the state criminal history database, then the documentation must substantiate that each condition is satisfied for the period a title IV-E foster care maintenance payment is made on behalf of a child placed in the foster family home.

35(b)(1). If Question 35(b) is *NO*, are title IV-E funds claimed for the period in the PUR the safety requirements are not satisfied for the foster parent(s)?

- Mark *N/A* if the answer to Question 35(b) is *YES*.
- Mark *YES* if the answer to Question 35(b) is *NO* and the title IV-E agency claimed title IV-E foster care maintenance payments for the period the safety requirements are not satisfied for the foster parent(s) during the PUR.
- Mark *NO* if the agency did not claim title IV-E foster care maintenance payments for the ineligible period.

When payments may begin and when payments must end. If the title IV-E agency claims title IV-E foster care maintenance payments for a period in which the child is not eligible and the ineligible period is

outside the PUR, the sample case is a non-error case with ineligible payments that are disallowed. If the agency claims title IV-E foster care maintenance payments for a period in which the child is not eligible and the ineligible period is in the PUR, the sample case is an error case with ineligible payments that are disallowed. These claims will be disallowed from the day in the month in which the requirement is not met.

Record ineligible period(s) on the Improper Payment Chart (Appendix 2 of the Review Instrument).

35(c). If the foster family home is newly licensed on or after October 1, 2008, or the title IV-E agency's delayed effective date, is a fingerprint-based check of the national crime information databases (NCID) completed satisfactorily on the foster parent(s)?

- Mark *N/A* if the child's placement is not a foster family home, or the foster family home is newly licensed prior to October 1, 2008, (or the title IV-E agency's delayed effective date) and remained continuously licensed.
- Mark *YES* if the title IV-E agency documents that a fingerprint-based check of the NCID is completed on the foster parent(s) prior to claiming title IV-E foster care maintenance payments on behalf of the child placed in the home.
- Mark *NO* if the agency does not document that a fingerprint-based check of the NCID is completed prior to claiming title IV-E foster care maintenance payments on behalf of the child placed in the home.

For the IV-E Review, the criminal check requirement is completed satisfactorily for the PUR for those foster family homes newly licensed on or after October 1, 2008, (or the title IV-E agency's delayed effective date for the fingerprint-based check of the NCID), if the documentation clearly verifies that: (1) a criminal records check is completed that includes a fingerprint-based check of the NCID; (2) the foster parent has not been convicted of any of the prohibited felonies listed in §§ 471(a)(20)(A)(i) and (ii) of the Act; and (3) title IV-E maintenance payments are not made for a period in the PUR prior to these conditions being met.

35(c)(1). If Question 35(c) is *NO*, are title IV-E funds claimed for the period in the PUR the fingerprint-based check of the NCID is not completed satisfactorily on the foster parent(s)?

- Mark *N/A* if the answer to Question 35(c) is *YES*.
- Mark *YES* if the answer to Question 35(c) is *NO*, and the title IV-E agency claimed title IV-E foster care maintenance payments.
- Mark *NO* if the agency did not claim title IV-E foster care maintenance payments for the ineligible period. If the agency does not meet the requirements as prescribed, the child is not title IV-E eligible while placed in the foster family home.

When payments may begin and when payments must end. If the title IV-E agency claims title IV-E foster care maintenance payments for a period in which the child is not eligible and the ineligible period is outside the PUR, the sample case is a non-error case with ineligible payments that are disallowed. If the agency claims title IV-E foster care maintenance payments for a period in which the child is not eligible and the ineligible period is in the PUR, the sample case is an error case with ineligible payments that are disallowed. These claims will be disallowed from the day in the month in which the requirement is not met.

Consistent with §§ 471(a)(20)(A) and (D) of the Social Security Act (the Act), a title IV-E agency only may claim title IV-E FCMPs on behalf of a child placed in a foster family home or child care institution for the days that the results of the criminal record checks have been received as described in the Act. Further, as specified in CWPM 8.4F, Q/A #8, title IV-E foster care maintenance payments may be paid on behalf of an otherwise eligible child placed in a foster family home only for the days that the foster parents' criminal records check have been completed, the records reveal that the parents did not commit any prohibited felonies in §§ 471(a)(20)(A)(i) and (ii) of the Act, and the foster family home is licensed (CWPM 8.4F, Q/A #38).

Record ineligible period(s) on the Improper Payment Chart (Appendix 2 of the Review Instrument).

General instructions for a child placed in a child care institution. Questions 36–36(c)(1) apply to the criminal records check requirements for all adults working in child care institutions.

The Family First Act modified title IV-E at § 471(a)(20)(D) of the Act to add new criminal records check requirements for children placed in child care institutions on or after October 1, 2018, (or the title IV-E agency's delayed effective date). For such placements, reviewers will determine whether each employee of the child care institution working during the PUR while the child was placed there has had a fingerprint-based check of the NCID, or alternate procedures, completed before the title IV-E agency claimed title IV-E foster care maintenance payments on behalf of the child.

For the IV-E Review, regardless of the licensure date of the child care institution, reviewers will examine the criminal records check documentation to determine for the PUR: whether the requirements are fully satisfied for the period in the PUR the title IV-E foster care maintenance payment is made for the child residing in the child care institution. The documentation must clearly specify for each applicable child care institution's staff: (1) the background check completed, (2) the date completed, (3) the individual on whom completed, (4) official authentication of the check such as an agency signature or the name of the official furnishing the result of the background check, and (5) the evidence reviewed.

For a IV-E Review, a "completed" criminal records check means one for which the title IV-E agency has received the results from the relevant authority conducting the check (CWPM at 8.4F, Question 34).

Documentation Requirements: Consistent with federal regulations at 45 CFR § 1356.30(f), the licensing file must consist of proof that the criminal records checks or alternative procedures required by § 471(a)(20)(D) of the Act for all adults working at the child care institution are completed. Documentation will consist of a list of each adult working at the child care institution during the child's stay throughout the PUR. The list is to include the date that the fingerprint-based check is completed. Similarly, if the title IV-E agency elected to use alternative criminal records check procedures, the list will include the alternative procedures completed and completion date for each adult working at the child care institution during the child's stay throughout the PUR. A review of, or reference to, statute, administrative rule or policy is not sufficient to document compliance with the criminal records check requirement. A letter simply stating "all criminal records checks or alternative procedures had been completed and persons cleared" also is not sufficient. The results of the check or alternative procedures must be tied to a specific employee. A request for a criminal records check without the results of the record search is not sufficient documentation of compliance.

The documentation requirements apply to a child's foster care placement during the PUR regardless of the jurisdiction in which the foster care placement is located. Therefore, if the child is placed in an out-of-

state child care institution, the title IV-E agency must provide documentation consistent with the type described above. That is, the documentation must verify that the caregiver staff in the child care institution where the child is placed during the PUR has complied with the fingerprint-based check or alternative procedures established by the jurisdiction in which the foster care provider is located. The documentation will be accepted based upon the degree that the documentation clearly specifies the safety measures completed, the date completed, and the evidence reviewed.

When payments may begin and when payments must end. If the title IV-E agency claims title IV-E foster care maintenance payments for a period in which the child is not eligible and the ineligible period is outside the PUR, the sample case is a non-error case with ineligible payments that are disallowed. If the agency claims title IV-E foster care maintenance payment for a period in which the child is not eligible and the ineligible period is in the PUR, the sample case is an error case with ineligible payments that are disallowed. These claims will be disallowed from the day in the month in which the requirement is not fully met.

Consistent with §§ 471(a)(20)(A) and (D) of the Social Security Act (the Act), a title IV-E agency only may claim title IV-E FCMPs on behalf of a child placed in a foster family home or child care institution for the days that the results of the criminal record checks have been received as described in the Act. Specifically, a title IV-E agency may only claim title IV-E FCMP on behalf of an otherwise eligible child placed in a child care institution for the days that the agency has received criminal records checks for all adults working in the child care institution (CWPM 8.4F, Q/A #34 and 38).

Record all ineligible periods on the Improper Payment Chart (Appendix 2 of the Review Instrument).

36. Is the child's placement during the PUR a child care institution?

- Mark *YES* if the child's placement reviewed in Section M, Question 34, is a child care institution.
- Mark *NO* if the child's placement is not a child care institution.
- Mark *N/A* for Questions 36(a) – 36(b)(3) if the answer to Question 36 is *NO*.
- Answer Question 36(a) or Question 36(b), as appropriate, and the applicable sub-questions if the answer to Question 36 is *YES*.

36(a). If the child is residing in the child care institution on or after October 1, 2018, or the title IV-E agency's delayed effective date, have all adults working in the child care institution had fingerprint-based checks of the NCID completed?

- Mark *N/A* if the child is not residing in the child care institution on or after October 1, 2018, (or the agency's delayed effective date).
- Mark *YES* if all adults working in the child care institution have had fingerprint-based checks of the NCID completed consistent with § 471(a)(20(D) and 45 CFR § 1356.30(f).
- Mark *NO* if the agency did not meet the criminal record check requirements as to each adult working in the child care institution.

In order to claim title IV-E foster care maintenance payments for a period during the PUR on behalf of an otherwise eligible child who is residing in a child care institution on or after October 1, 2018, (or the agency's delayed effective date for the fingerprint-based check of the NCID), the agency must document that all of the adults working in the child care institution have had a fingerprint-based check of the NCID

completed (or an approved alternative procedure). All adults, including adults who do not work directly with children, are subject to the background check requirements when working in a child care institution. In sum, the criminal records check requirement is considered met for the PUR if the documentation clearly verifies that (1) the fingerprint-based check of the NCID is completed for all adults working at the child care institution during the child's stay in the PUR and (2) title IV-E maintenance payments are not made for a period in the PUR prior to these conditions being met.

The FBI has made clear that title IV-E agencies are not prohibited from disseminating criminal history record information (CHRI) to governmental agencies that have audit and oversight responsibilities. The CB is one such agency. The FBI has addressed this issue in its publication: *National Crime Prevention and Privacy Compact Council's Noncriminal Justice Online Policy Resource—Dissemination of FBI Criminal History Record Information for Noncriminal Justice Purposes* (2015). Therefore, a law or practice governing the title IV-E agency that prohibits dissemination of CHRI records to the CB for purposes of the IV-E Review is not sufficient reason to exclude review of these records. The title IV-E agency is expected to make available to review team members the results provided them through the criminal background checks completed for adults working in child care institutions in which children have been placed, regardless of whether the agency has a negative finding on this issue from a previous FBI audit.

36(b). If Question 36(a) is *NO*, does the title IV-E agency have alternative procedures to conduct criminal records checks?

- Mark *N/A* if the child was not residing in the child care institution on or after October 1, 2018, (or the agency's delayed effective date) or the answer to Question 36(a) is *YES*.
- Mark *YES* at Question 36(b), if the answer to Question 36(a) is *NO*, and the title IV-E agency has reported to the CB the alternative criminal records check procedures for all adults working in the child care institution.
- Mark *NO* if the answer to Question 36(a) is *NO*, and the agency has not reported to the CB the alternative criminal records check procedures for all adults working in the child care institution.

A title IV-E agency may elect to use alternative criminal records check procedures. If the agency elects to use an alternative procedure, the agency must report the procedure to the CB (HHS) and describe why the procedures required in § 471(a)(20)(D) of the Act for conducting criminal record checks are inappropriate for the agency. The alternative procedures must be completed for all of the adults working in the child care institution.

36(b)(1). If Question 36(b) is *YES*, are the alternative procedures completed satisfactorily for all adults working in the child care institution?

- Mark *N/A* if Question 36(b) is *N/A* or *NO*.
- Mark *YES* if the title IV-E agency's reported alternative procedures are completed satisfactorily for the adults working in the child care institution.
- Mark *NO* if the agency's reported alternative procedures are not completed satisfactorily for the adults working in the child care institution.

For the IV-E Review, the criminal records check requirement is considered met for the PUR if the documentation clearly verifies that (1) the title IV-E agency's alternative procedures are reported to the

CB (2) the alternative procedures are fully completed for all adults working at the child care institution during the child's stay in the PUR and (3) title IV-E maintenance payments are not made for a period in the PUR prior to these conditions being met.

36(c). Are the criminal records check requirements met in the PUR for the child residing in a child care institution on or after October 1, 2018, or the title IV-E agency's delayed effective date, consistent with § 471(a)(20(D)?

- Mark *N/A* if the child was not residing in the child care institution on or after October 1, 2018, (or the agency's delayed effective date).
- Mark *YES* if the agency has met all of the relevant criminal records check requirements for a child residing in a child care institution on or after October 1, 2018, (or the agency's delayed effective date).
- Mark *NO* if the agency has not met all of the relevant requirements.

As explained in ACYF-CB-PI 18-07, the licensing file must consist of proof that the fingerprint-based check of the NCID or alternative procedures required by § 471(a)(20)(D) of the Act are completed for all adults working at child care institution during the child's placement in the PUR.

36(c)(1). If Question 36(c) is *NO*, are title IV-E funds claimed for the period in the PUR that the criminal records check requirements are not completed satisfactorily on all adult staff of the child care institution?

- Mark *N/A* if the child is not residing in a child care institution on or after October 1, 2018, (or the title IV-E agency's delayed effective date).
- Also mark *N/A* if Question 36(c) is answered *YES*.
- Mark *YES* at Question 36(c)(1), if the agency did not document that the child care institution met requirements as to each staff, and the agency claimed title IV-E foster care maintenance payments for the ineligible period during the PUR.
- Mark *NO* if the agency did not claim title IV-E foster care maintenance payments for the ineligible period.

When payments may begin and when payments must end. If the title IV-E agency claims title IV-E foster care maintenance payments for a period in which the child is not eligible and the ineligible period is outside the PUR, the sample case is a non-error case with ineligible payments that are disallowed. If the agency claims title IV-E foster care maintenance payments for a period in which the child is not eligible and the ineligible period is in the PUR, the sample case is an error case with ineligible payments that are disallowed. These claims will be disallowed from the day in the month in which the requirement is not fully met. The otherwise eligible child can become eligible again as of the first day of the child's placement in the month in which the criminal record check(s) are completed for all adults working in the child care institution where the child is residing during the PUR.

Record all ineligible periods on the Improper Payment Chart (Appendix 2 of the Review Instrument).

ADDITIONAL NOTES/COMMENTS

Use this space to record additional notes and comments regarding a question on the Review Instrument. The question number and description of supporting case documentation also should be included.

CASE FINDINGS GLOSSARY

After the Review Instrument is completed, determine whether the sample case is a non-error case or an error case and mark this on the first page of the Review Instrument, Section A. Also, for either a non-error case or an error case, indicate whether improper payments, which consist of underpayments and/or ineligible payments, are identified. (Instructions for Appendix 2 of the Review Instrument, that follow, have additional information on reporting improper payments.)

Eligible Child: A child is considered eligible when all title IV-E eligibility criteria pertaining to the child and the child's foster care placement are met. The child must be in a foster care placement that is allowable under title IV-E in order for the otherwise eligible child to be considered as meeting all title IV-E criteria for eligibility.

Ineligible Child: A child is ineligible if a title IV-E eligibility criterion pertaining to the child or the child's foster care placement is not met.

Ineligible Payment: An ineligible payment refers to a title IV-E maintenance payment claimed for a child who is not eligible on the date of the claimed activity or when there is an unallowable program cost claimed for an eligible child.

Non-Error Case with Ineligible Payment: A non-error case with ineligible payment occurs when (1) an unallowable title IV-E maintenance payment is made for a period solely outside the PUR for an ineligible child or (2) an unallowable title IV-E maintenance payment is made for a period in or outside the PUR for an eligible child.

Error Case: An error case occurs when a title IV-E maintenance payment is made for a period within the PUR on behalf of an ineligible child. This includes the period within the PUR prior to the month the child meets an eligibility requirement.

Underpayment: An underpayment occurs when a title IV-E agency unintentionally fails to claim an allowable title IV-E maintenance payment for an eligible child and the 2-year filing period specified under 45 CFR § 95.7 has not expired. An underpayment has not occurred when the title IV-E agency intentionally does not claim the allowable payment, or the 2-year filing period has expired.

QUALITY ASSURANCE SIGNATURES AND DATES

The CB Review Leads for the IV-E Review are responsible for ensuring that a quality assurance check of the Review Instrument is performed after the reviewer completes the instrument. First and second level quality checks are conducted independently on each Review Instrument to ensure consistency, objectivity, and accuracy in reviewing cases. (See Review Guide, Appendix F, "Quality Control Tasks for the Title IV-E Foster Care Eligibility Review.") Each Quality Assurance Reviewer will sign and enter the signature date in the space provided on the top of the first page of the Review Instrument to indicate at which level a quality assurance review has been completed.

APPENDIX 1: LICENSING/SAFETY CHECKLIST FOR MULTIPLE PLACEMENTS

Appendix 1 of the Review Instrument is used to record an additional foster care placement where the child has resided during the PUR for which the title IV-E agency has claimed title IV-E foster care maintenance payments for the period of stay in the placement setting. A separate Appendix 1 is completed for each of these placements. The directions for completing each question in this appendix are detailed in the Review Instrument's instructions, sections M and N, starting with Question 28.

APPENDIX 2: IMPROPER PAYMENT CHART

Appendix 2, Improper Payment Chart, of the Review Instrument is used to record all improper payments identified during the IV-E Review. An improper payment is any title IV-E foster care maintenance payment the title IV-E agency should not have claimed or has claimed in an incorrect amount under a requirement applicable to title IV-E. Incorrect amounts are overpayments, duplicate payments, erroneous and otherwise ineligible payments, and underpayments.

For each incidence of an improper payment, the reviewer must record in Appendix 2 of the Review Instrument a brief description of the improper payment. The description will consist of: the applicable question number on the Review Instrument, the corresponding title IV-E eligibility and/or payment issue and the start date (month/day/year) and the end date (month/day/year) of the period of the improper payment. The improper payment period will begin with the first day of the ineligibility or underpayment and continue through the day that the ineligibility or underpayment ends. (See the Review Guide, "Improper Payments," Chapter 1 for the period of the improper payment shown in the final report of review findings.) The information on improper payments is recorded in Appendix 2 regardless of whether the sample case is determined an error case.

The ACF Grants Management Specialist will calculate the amounts of the disallowance for the ineligible payment, including related administrative costs, and the underpayment that may be claimed for the eligible payment and record them in Appendix 2. The disallowance and underpayment amounts are obtained from the payment history the title IV-E agency provides for the most recent foster care episode(s) for the sample case.