

Tips, Tools and Trends

E is Okay – Electronic Court Orders

The electronic exchange of information between courts and child welfare agencies is a powerful tool that can lessen children's time in foster care and efficiently provide all parties with the information they need to make timely and informed decisions about child safety, permanency and well-being. As an increasing number of States move towards using automated information systems and electronic court orders, questions have been raised about whether electronic records are acceptable by Federal reviewers during a title IV-E regulatory review. We are happy to announce, Federal policy under title IV-E of the Social Security Act indicates that "e" for electronic is okay.

Regulations set forth in 45 CFR 1356.71 govern the review process used to determine a State agency's compliance with title IV-E eligibility provisions. As part of the Federal review process, the child's service records, including all court orders, are examined to establish that the judicial requirements pertaining to title IV-E are met. These include judicial determinations relating to "contrary to the welfare" and "reasonable efforts" for children who are judicially removed and "best interest" for children removed through a voluntary placement agreement. Chapter 3 of the "Title IV-E Foster Care Eligibility Review Guide" contains relevant guidance about the use of electronic records in the regulatory review. The guide states the following:

"The State agency may use electronic files to substantiate title IV-E eligibility. If electronic files are used on site, the State agency should make computers and technical assistance available to the reviewers for viewing the electronic records or obtain hard copies of all the files or portions of the files that contain information relevant to the review. "

State agencies are required to provide training to the review team members so that reviewers understand how the State's data system operates and where pertinent information documenting the child's eligibility is located within the system. Electronic files may be used to provide evidence of:

"...the child's removal as a result of judicial determinations of "contrary to the welfare" and "reasonable efforts" or via a voluntary placement agreement; responsibility for placement and care vested with State agency; placement in a licensed foster family home or childcare institution; eligibility for AFDC under the State plan as it was in effect

on July 16, 1996; and verification of safety requirements for children placed in foster care.”

State agencies using electronic records must demonstrate that the automated system is a valid representation of the State’s business practice and policy pertaining to the title IV-E eligibility determination processes. States may be asked to provide corroborating records to assist reviewers in determining the validity of the data in the State agency’s automated system. Utah has successfully used electronic, digitally signed court orders as documentation for their title IV-E reviews. Utah staff recommends that States consider the best method of retrieving the electronic court orders during the federal review process. In some cases a reviewer might want a paper copy of an electronic order and in other cases it may be possible for a federal reviewer to sit with a staff member as they access the system and review its content so there is no need to print anything from the system. States will also need to document their statutes and administrative policies related to electronic files, including signature and document authentication as well as edit authorizations. States should anticipate that they will need to demonstrate how the automated system sustains the functional aspects of the eligibility program, such as provider licensing AFDC eligibility determination and court documentation. Finally, court orders used as part of the title IV-E regulatory review process should conform to statutory timeframes and document the required judicial determination have been met.

Courts and child welfare agencies share responsibility for facilitating timely placement of children from foster care into safe, permanent families. Electronic data exchange is an efficient and effective method of ensuring that courts and child welfare agencies retain the information needed to make timely and informed decisions. States that are in the process of moving towards automated information systems and electronic court orders electronic records are encouraged to familiarize themselves with the appropriate regulations governing the title IV-E regulatory review process and ensure compliance to these regulations. A copy of the current “Title IV-E Foster Care Eligibility Review Guide” is accessible on the Children’s Bureau website at www.acf.hhs.gov/programs/cb/cwmonitoring. An updated review guide will be available soon.

Please contact the NRC-CWDT at nrccwdt@cwla.org for further assistance, including technical assistance on this topic.