



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Great Plains Regional Office
115 Fourth Avenue SE, Suite 400
Abbeville, South Dakota 57401



APR 20 2012

IN REPLY REFER TO:
Human Services
MC-303

MEMORANDUM:

TO: Superintendent, Fort Totten Agency

FROM: Social Worker, Great Plains Region
Self-Determination Officer, Great Plains Region

THROUGH: ^{ACTING} Deputy Regional Director – Indian Services, Great Plains Region

SUBJECT: Fiscal Year (FY) 2012 Social Services Program Review,
Spirit Lake Sioux Tribe

Mary Buck

Date of Review: February 27-March 2, 2012.

Place of Travel: Spirit Lake Sioux Tribe, Fort Totten Agency, Fort Totten, North Dakota.

Purpose: To conduct the annual program review.

Contacts: Roderick Cavanaugh, Superintendent, Fort Totten Agency; Monte LeBeau, Deputy Superintendent, Fort Totten Agency; Chairman Roger Yankton, Spirit Lake Sioux Tribe; Dennis Meier, Acting Program Director, Spirit Lake Tribal Social Services.

In accordance with Title 25 CFR, §20 and §115, and Public Law (PL) 93-683, Valerie Vasquez, Social Worker, Midwest Region, Michelle Deason, Social Worker, Southern Plains Region, Yvonne Laroque, Self-Determination Officer, and Tasha Hart, Social Worker, Great Plains Region, conducted a program review of the Spirit Lake Social Services Program. This final report of the program review is to document the need for corrective action and to encourage ongoing improvement.

The General Assistance, Individual Indian Money (IIM) Accounts, Child Assistance, Services Only, Emergency Assistance, Burial Assistance and the Indian Child Welfare Act (ICWA) components were reviewed. The attached tables provide a summary of the areas of greatest concern. Also attached are the original individual case review instruments that need to be filed in each of the individual case records.

The review of the Child Assistance and Services Only components of the Spirit Lake Sioux Tribe revealed numerous discoveries. Furthermore, there were high risk findings at the Agency that pose an imminent danger to the health, safety, and well-being of children either in placement or referred for protective services.

Child Assistance

There were ten Child Assistance cases reviewed. These findings include:

1. The files must contain a request for child assistance; most of the cases reviewed did not contain the supporting documentation required by 25 CFR §20.500(b)(1), i.e. no written request from parents or no application for services in the case file.
2. Some of the cases failed to show court orders to indicate that the children were under the jurisdiction of the tribal court as required by 25 CFR §20.500(b). If a child is to be removed from the home, a petition must be filed in the tribal court. If placement is necessary, a Tribal court order must be in place to further ensure the safety of the child. In every involuntary proceeding, a court order must be included in the case file.
3. There was a lack of documentation to support completion of Federal background checks prior to placement as required by PL 101-630. Background checks are critical to ensure the safety of the children.
4. Copies of Foster Home licenses were not in case files as required by 25 CFR §20.506(f). Children must be placed in safe homes that meet minimum standards. Liability may also result from noncompliance with licensing standards.
5. The files must contain a statement from the parent(s)/custodian(s)/guardian(s) stating they are unable to provide the necessary care and guidance for the child or to provide for the child's special needs in their own home. The case files failed to include such documentation in accordance with 25 CFR §20.500(b)(2).
6. The files must show that an assessment of the parents', guardian's, or custodian's ability to care for their child has been completed by the Social Services Worker in accordance with 25 CFR §20.500(b)(3). The case files fail to show such supporting documentation.
7. In accordance with 25 CFR §20.500(c), all income accrued to the child, except for income exempted by Federal statute, must be considered to meet the cost of special needs, foster/residential home; this analysis must be completed by Social Services. The case files failed to show supporting documentation.

8. The Bureau Line Officer/Superintendent must approve residential care contract, adoption, or guardianship subsidies in accordance with 25 CFR §20.503(d).
9. The child(ren) and family must be provided with case management services and supportive services. There was a lack of supporting documentation of such services.
10. If the case originated as a child protection case, there needs to be active coordination efforts between Social Services and Law Enforcement. Documentation of such efforts needs to be on file.
11. Written case plans must be established within 30 days of placement, including a permanency plan detailing the need for and expected length of placement. Such plans were not included in some of the files as required by 25 CFR §20.505(c) and 506(b).
12. The case plans need to be actively followed. There was a lack of documentation in a majority of the case files that these were being followed or that they had been implemented.
13. The Foster Family Agreement was missing in the case files. This is a document that is signed and dated by the parties involved specifying the roles and responsibilities of the biological parents, foster parent(s), and placement agency. The terms of payment of care and the need for adherence to the established case plan are incorporated in this agreement (25 CFR §20.509 (e)).
14. The case file must contain a list of all prior placements, including the name of foster parents and the dates of each placement. A majority of the case files failed to contain this list, as required by 25 CFR §20.506(1).
15. Training for foster families is extremely important; training is not only an intervention tool, but provides the foster family with the opportunity to ask questions and understand and perform their important role as a foster family unit. A majority of the case files failed to show that training had been provided to the foster care providers as required by 25 CFR §20.507(a)(2).
16. For any placement beyond 30 days, a court order documenting the need for protection of the child must be included in the case files as required by 25 CFR §20.506(i).
17. The foster family needs to be informed that any occurrences of suspected child abuse and/or neglect shall be reported immediately. Documentation that the family was informed of this requirement needs to be on file.

18. According to the regulations at 25 CFR §20.509(g), a yearly assessment of each tribal foster home, state licensed foster home, or residential care facility must be completed to assess how the home has or facility has fulfilled its function relative to the needs of the children placed in the home or facility.

19. There needs to be a separate record maintained for each licensed foster home. Program personnel were not able to provide the reviewers with foster home case files.

20. The case files showed no evidence that even minimal reasonable efforts had been made to reunite families; this activity is critical to advancing the best interests of the child.

21. Every file reviewed lacked updated narratives reflecting the consistent contact required by the regulations, including home visits, contacts, reunification efforts, service referrals, and any other activities related to each case. This documentation needs to be in each file.

22. Case plans must be reviewed by the court at least every six months. This court review is critical to decision making about reasonable efforts as balanced with child safety. The files with long term placements did not demonstrate that such periodic reviews had occurred.

23. A minimum of one visit per month, to the placement, by the case worker must be made in accordance with 25 CFR §20.508(k). This visit will assure that the child is safe and that the foster care arrangements are in the best interest of the child.

Services Only

There were thirteen Services Only cases reviewed. These findings included:

1. Tribal enrollment and on-or-near reservation status needs to be verified before services are provided. The files did not demonstrate that such reviews had been conducted.

2. The application for service needs to be completed, including documentation of provision of Privacy Act and Freedom of Information Act notices.

3. The case record must contain problem identification, background information, a case plan, current narrative entries, and a closing summary. The majority of the files did not have this information. All activity related to this should be documented and filed on a timely basis.

4. For protective services, there was a lack of documentation of cross-reporting to Law Enforcement within 36 hours as required by 25 CFR §20.403.
5. There was no documentation in any of the files that showed that there were monthly Child Protection Team meetings being conducted (25 CFR §20.403).
6. There was a lack of documentation that investigations were completed on the referrals that were received, as required by 25 CFR §20.403. For example, IHS reported sending a number of referrals (commonly on a form called a "960"), yet the staff could not demonstrate any sort of tracking or follow-up system for referrals.
7. Public Law 99-570, the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986, requires all Bureau operated and contracted Social Services programs to compile data relating to number and types of substantiated child abuse and neglect cases and types assistance provided. There were no reports available for any recent time period.

Individual Indian Monies (IIM) Supervised Accounts

There were three active IIM account records reviewed. Of the three reviewed, two or more had the following findings:

1. The caseworker must document all other available resources that could be accessed prior to the use of IIM funds, pursuant to 25 CFR §115.417 and 420(d), and the September 7, 2004, BIA Policy Clarification Memorandum (Page 3 Item 10). Files did not demonstrate that a resource review was conducted.
2. Pursuant to 25 CFR §115.417, 420(g), 425, and 427(a), (b), and (d), and the September 7, 2004, Policy Clarification Memorandum, receipts are to be collected for all expenditures made during the review period as described in the Social Services assessment. As per the September 7, 2004, BIA Policy Clarification Memorandum (Page 4, item C), receipts are not required for approved monthly allowances (maximum of \$150) on adult accounts only. Files did not demonstrate any receipts as required by policy and regulation.
3. An IIM account review needs to be completed and documented within six months of the Initial Distribution Plan or any Modified Distribution Plans older than six months as required by 25 CFR §20.404(iv) & (v), §115.420(g) and 427(d). Files did not demonstrate that such reviews had been conducted.

4. The previous corrective actions must be addressed and completed as required by 25 CFR §115.426 and 427 and the September 7, 2004, Policy BIA Clarification Memorandum. The corrective action of obtaining receipts for previous distributions needs to be completed and filed.

General Assistance

There were six General Assistance cases reviewed. Of the six, three or more had the following findings:

1. The application and Individual Self-Sufficiency Plan (ISP) both need to be signed and dated by the caseworker as required by 25 CFR §20.318. Staff should ensure such signatures are in place.
2. There needs to be documentation of applications for other resources including TANF, SSI, etc. If a client is denied other resources, the denial letter needs to be in the file (25 CFR §20.300, 302, and 303). Files reviewed did not contain such documentation.
3. Pursuant to 25 CFR §20.306 and 313 and PL 104-193, the Bureau must use the same TANF payment standard (and any associated rateable reduction) that exists in the state or service area where the applicant or recipient resides. This payment standard is the amount from which the Bureau subtracts net income and resources to determine General Assistance eligibility and payment levels. Files reviewed did not reflect this requirement was met.
4. The daily rate needs to be used to complete GA retroactive budget amounts. Files reviewed did not reflect this requirement was met.
5. Verification and documentation of exemption from employment needs to be on file. This would include a statement from a physician, psychologist, or Social Services worker certifying that a physical or mental impairment (either by itself, or in conjunction with age) prevents the individual from being employed. Please see 25 CFR §20.315 for all other exemptions. Files reviewed did not reflect this documentation.
6. Pursuant to 25 CFR §20.304, the caseworker will review eligibility for General Assistance. Redetermination is required at three months for employables and six months for unemployables and appropriate revisions reflected in case plans and ISPs. Files did not reflect that such eligibility reviews had occurred.
7. The caseworker should document all monitoring regarding the client's progress and participation in meeting their ISP goals (25 CFR §20.318). Files did not reflect such documentation or monitoring.

8. A case plan also needs to be established with the client and on file. A number of files reviewed had no case plan.

The Spirit Lake 477 Program is to be commended for the work that they have done since taking over the General Assistance program. They have innovative ideas to work with the clients and assist them with achieving self-sufficiency. This finding is an example of best practices that exemplify quality support of ISP progress.

Burial Assistance

There were eight cases reviewed. Of the eight, two or more had the following findings:

1. The OMB approved application or equivalent needs to be submitted within 30 days of the death (25 CFR §20.325). Files reviewed did not contain the application or its equivalent.
2. The hearing rights and statement of fraud need to be provided. These are both included on the OMB-approved application. Absence of the application or the equivalent prevented documentation of this requirement in many of the files reviewed.
3. Pursuant to 25 CFR §20.300, the Bureau will not approve an application unless it meets the criteria specified, including that the individual is a member of an Indian tribe, lived in the service area at least six months prior to death, is determined to be indigent, is not eligible for other assistance, and verification of death is provided. Files did not evidence any attempt to review this criteria prior to receipt of assistance.
4. As required by 25 CFR §20.325(b), the Bureau will determine eligibility based on the income and resources available to the deceased in accordance with 25 CFR §20.100. This includes but is not limited to SSI, veteran's death benefits, social security, and Individual Indian Money (IIM) accounts. Files reviewed did not demonstrate a resource assessment.
5. Pursuant to 25 CFR §20.325 and the December 12, 2000, Social Services Payment Standards Policy Memorandum, the total allowable amount for burial assistance is \$2,500. If the Tribal Burial program offers less than \$2,500, the combined assistance cannot exceed \$2,500. In all of the files reviewed, there was no documentation of an evaluation of other resources, which would include funds received from the Tribal Burial program. The files did not demonstrate that Tribal Burial Program resources had been cross-checked.

Emergency Assistance

Five cases were reviewed. Of the five, all had the following findings:

1. The OMB-approved or equivalent application was not utilized.
2. Pursuant to 25 CFR §20.329 and 330, and the December 12, 2000, Social Services Payment Standards Policy Memorandum, documentation of eligibility factors need to be verified and on file. Emergency Assistance payments can be provided to individuals or families who suffer from a burnout, flood, or other destruction of their home and loss or damage to personal possessions. The Bureau will only make payments for essential needs and other non-medical necessities. No documentation of permissible emergency assistance screening was available.
3. The payment for Emergency Assistance as required by 25 CFR §20.330 and the December 12, 2000, Social Services memorandum, will not exceed the Bureau's maximum Emergency Assistance payment standard established by the Assistant Secretary of \$1,000 per household. Although there was a ledger that included names and dates of those who received assistance, there were no individual files set up for each client provided with emergency assistance as required.

Indian Child Welfare Act (ICWA)

There were seven case files reviewed. Of the seven, two or more had the following findings:

1. There needs to be documentation on file that the individuals being served are Indian as defined in 25 CFR §23.2. The files lacked such documentation.
2. There needs to be a case plan/service plan on file for each child, as required by 25 CFR §23.2. The files lacked such documentation.
3. Pursuant to 25 CFR §23.2 and 25 USC §1901, there needs to be documentation that the children and family are being served concurrently. The files lacked such documentation.
4. As required by 25 CFR §23.2, referrals and coordination with other agencies or programs when appropriate needs to be on file. The files lacked such documentation.
5. Pursuant to the Indian Child Welfare Act, there needs to be documentation demonstrating that family separation was the last alternative and that, where separation becomes necessary in the best interests of the child(ren), there is documentation of active efforts towards reuniting the family. The files lacked such documentation.

6. As required by 25 UFC §1911, case files should include court orders specifying that the child is a ward of court with supervision assigned to the ICWA Program. Case files did not contain such court orders.

7. All case-related activities and narratives need to be documented and on file. These entries must be up-to-date. Updated narratives were not present in files.

Other Administrative and Reporting Corrective Actions

1. Due to a light caseload, the director should consider using the ICWA staff to assist with overall corrective action items, depending on workload and staff skill sets.

2. The director should request technical assistance from our Regional Human Services Office before contemplating or making any payments whatsoever for any child assistance other than regular monthly foster care payments.

3. The program personnel should log and track every single abuse and neglect referral; and train all employees immediately to collect these referrals in one location. Assign a specific staff member to take primary responsibility for tracking, investigating, and coordinating the efforts for each case as described in 25 CFR §20.402-404, inclusive. Initiate removals promptly where warranted. Initiate in-home service plans where warranted. We will cross-check IHS and school referrals with your log.

4. While onsite, the review team noted that all calls to the Social Services office automatically go to voicemail. This made it difficult for the review team and everyone else to communicate with the staff in a timely manner. Office personnel should be answering the phone instead of letting the calls go to voicemail. If urgent child abuse and neglect referrals come in, this may impede a reasonably prompt response. The employees answering the phones should have an appropriate sheet to fill out to collect information on the report for necessary referrals and review. In addition, parents working on reunification or other service providers should be able to contact the office promptly.

5. The director should provide a Child Abuse and Neglect Report (CAN) monthly report to our office indicating standard statistics (for example, the number of new/active referral protective cases, types of referrals, results of investigations, and action taken). This report is due on or before the 5th day of the following month.

6. The program should initiate a master tracking list of all foster care cases, with, at a minimum, the following information: a. Type of case; b. Date of removal, if any; c. Name of family/facility where placed; d. Date required for 72 hour hearing, if needed, and when completed; e. Date of last status hearing; f. Date of last home visit; g. Worker assigned to the case; h. Date of licensing.

7. The director should increase the FASSR reporting from annual to quarterly for the remaining Social Services programs as the 477 program is not required to submit quarterly FASSRs.
8. The director should coordinate Monthly Child Protective/Multi-Disciplinary Team meetings to staff cases and secure resources for foster parents, children, and families who are subject to in-home monitoring or involuntary removal. The initial meeting reinstituting this practice could be coordinated with our follow-up visit May 22-23, 2012.
9. There should be participation in the Spirit Lake Suicide Coalition, which meets the first Tuesday of every month, in order to assist with coordination of services for any children served by Social Services currently monitored by the Coalition for suicide risk.
10. For every child in care, either in custody of a foster family or temporarily with the Social Services program, the director ensure that every person taking children for physical or mental health treatment: a. has documentation demonstrating legal custody or guardianship, including court orders and Foster Family Agreements; and b. is able to sign both intake paperwork and authorization for treatment.
11. The director should conduct staffing meetings every Monday to assign critical items from the master tracking list and child protective log (72 hour hearings, referral investigation, planning home visit or hearing workload/assignments).
12. Confirmation from the Tribe that background checks of all Social Services staff have been completed needs to be submitted to the Regional Office.

Request for Financial Documentation and Verification

In order to fully assess possible disallowed costs, the Great Plains Region Self-Determination Office requests the following documentation:

1. *Every recipient for Burial Assistance must be cross-checked by name for receipt of Tribal Burial Assistance. Provide the dollar amount received (both funeral expenses paid and any other costs) on behalf of each decedent associated with each recipient of the Social Services Program's Burial Assistance.
2. *Note beside each Emergency Assistance recipient's name in the general ledger the exact nature of the emergency experienced.
3. *For each individual name listed as a recipient of Child Assistance – Other Than Residential Care, please provide for every payment issued, which month the payment is for, and the age of each child in care for that month.

4. *All payments to correctional facilities for Child Assistance – Residential Care, will be considered disallowed costs. For all other Residential Care payments, please provide proof of pre-approval by the Superintendent and proof that the payment issued only for room and board.

The corrective actions that are marked with an asterisk require initiation and completion within 30 days. All other findings require immediate initiation and completion.

Name of Consultants: Tasha M. Hart, MSW, Regional Social Worker, and Yvonne LaRocque, Self-Determination Officer.

TASHA M. HART
Social Worker

4/17/2012
Date

Yvonne LaRocque
Self-Determination Officer

04-17-12
Date

Concurred:

Bruce D. [Signature]
ACTING Regional Director

4-19-12
Date

Attachments:

cc: Chairman, Spirit Lake Tribe
Director, Spirit Lake Tribe Social Services
Chief, Division of Human Services, Central Office