

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Administration for Children and Families**

**Proposed Information Collection Activity; Comment Request**

**Proposed Projects**

*Title:* Statewide Automated Child Welfare Information System (SACWIS) Assessment Review Guide (SARGE).

*OMB No.:* 0970-0159.

*Description:* The Department of Health and Human Services cannot fulfill its obligation to effectively serve the nation's adoption and foster care populations, nor report meaningful and reliable information to Congress about the extent of problems facing these children or the effectiveness of assistance provided to this population, without access to timely and accurate

information. Currently, SACWIS supports State efforts to meet the following Federal reporting requirements: The Adoption and Foster Care Analysis and Reporting System (AFCARS) required by section 479(b)(2) of the Social Security Act; the National Child Abuse and Neglect Data System (NCANDS); Child Abuse Prevention and Treatment Act (CAPTA); and the Chafee Independent Living Program. These systems also support state efforts to provide the information to conduct the Child and Family Service Reviews. Currently, forty-five States and the District of Columbia have developed, or are developing, a SACWIS with Federal financial participation. The purpose of these reviews is to ensure that all aspects of the project, as described in the approved Advance Planning Document, have been adequately completed, and conform to applicable regulations and policies.

To initiate a review, states will submit the completed SACWIS Assessment Review Guide (SARGE) and other documentation at the point that they have completed system development and the system is operational statewide. The additional documents submitted as part of this process should all be readily available to the state as a result of good project management practices.

The information collected in the SACWIS Assessment Review Guide will allow State and Federal officials to determine if the State's SACWIS meets the requirements for title IV-E Federal Financial Participation (FFP) defined at 45 CFR 1355.50. Additionally, other States will be able to use the documentation provided as part of this review process in their own system development efforts.

*Respondents:* State Title IV-E Agencies.

**ANNUAL BURDEN ESTIMATES**

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Review .....	3	1	250	750

*Estimated Total Annual Burden Hours:* 750.

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. E-mail address: [grjohnson@acf.hhs.gov](mailto:grjohnson@acf.hhs.gov). All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or

other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: January 21, 2005.

**Robert Sargis,**  
*Reports Clearance Officer.*  
 [FR Doc. 05-1521 Filed 1-26-05; 8:45 am]  
**BILLING CODE 4184-01-M**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Administration for Children and Families**

**Notice of Appeal**

**AGENCY:** Administration on Children, Youth and Families, ACF, DHHS.

**SUMMARY:** By designation of the Administration for Children and Families, a member of the Departmental Appeals Board has been appointed as the presiding officer for an appeal of the Administration for Children and Families' (ACF) disapproval of an amendment to the plan of the New York State Office of Children and Family Services for implementing title IV-E of the Social Security Act (Foster Care and Adoption Assistance). The purpose of this notice is to give interested parties an opportunity to participate.

*Requests To Participate:* Requests to participate as a party or as amicus curiae must be submitted to the Departmental Appeals Board in the form specified at 45 CFR 213.15 by February 11, 2005. Within that time, those persons, groups, or organizations seeking participation as parties or amici may file petitions or request extensions of time for submitting petitions to participate, and may also contact the Board to obtain copies of the briefs that the parties have filed.

**FOR FURTHER INFORMATION CONTACT:** Jeffrey Sacks, Staff Attorney, Departmental Appeals Board, Appellate Division, MS-6127, Room G-644, Cohen Building, 330 Independence Avenue, SW., Washington, DC 20201, telephone number (202) 565-0123, [jeffrey.sacks@hhs.gov](mailto:jeffrey.sacks@hhs.gov).

**SUPPLEMENTARY INFORMATION:** Notice of appeal is hereby given as set forth in the following letter, which has been sent to the New York State Office of Children and Family Services.

Alan A. Pfeffer, Assistant Deputy Counsel, New York State Office of Children and Family Services, Capital View Office Park, 52 Washington Street, Rensselaer, New York 12144-2796.

*Counsel:*

This letter is in response to the request of the New York State Office of

Children and Family Services (State) for a hearing to contest the Administration for Children and Families' (ACF) disapproval of an amendment to the State's plan for implementing title IV-E of the Social Security Act (Foster Care and Adoption Assistance).

The basis for the disapproval is that the plan amendment alters the eligibility criteria for title IV-E Foster Care in a manner that is inconsistent with the criteria at section 472 of the Social Security Act (Act) (42 U.S.C. 672).

Section 472(a) requires that each state with an approved plan under title IV-E make foster care maintenance payments with respect to a child who has been removed from his or her home and placed in foster care pursuant to a voluntary placement agreement or court order, and who would have been eligible for benefits under the former Aid to Families with Dependent Children (AFDC) program at former title IV-A of the Act (as in effect on July 16, 1996) in the month in which the agreement was entered or court proceedings initiated, or within six months prior to such month, if the child had still been in the home from which the child was removed.

The State's plan amendment (Transmittal No. 03-4) would alter the eligibility requirements with respect to whether the child must have been eligible for AFDC in the home from which he or she was removed, consistent with the holding of the U.S. Court of Appeals for the Ninth Circuit in *Rosales v. Thompson*, 321 F.3d 835 (9th Cir. 2003). That case involved a child who was removed from his parent's home and placed informally with a grandparent who later became the child's foster care parent upon entry of the court order legally removing the child from the parent's home. The child would not have been eligible for AFDC payments while in the parent's home, but was eligible in the grandparent's home. The court found that the child was eligible for title IV-E Foster Care, based on the child's eligibility for AFDC while residing informally in the grandparent's home.

ACF has determined that the holding in *Rosales v. Thompson* misinterprets the Act and conflicts with Department regulations and policy, and has declined to apply it with respect to states outside the Ninth Circuit. ACF has determined that the child's eligibility for AFDC must be based on the home of the parent or other specified relative who was the child's legal guardian and from which the child is legally removed, and not on the home of a specified relative with whom the child resides informally after

the child has been physically removed from home of the child's parent or specified relative who was the child's legal guardian, but prior to the judicial determination or voluntary placement agreement legally removing the child from the home of the child's parent or other specified relative who was the child's legal guardian.

I have designated Donald F. Garrett, a member of the Departmental Appeals Board, as the presiding officer pursuant to 45 CFR 213.21. ACF and the State are now parties in this matter. 45 CFR 213.15(a). The parties have agreed that there are no disputed issues of fact, and that an in-person hearing is not necessary to resolve the State's request for reconsideration. Accordingly, the parties have agreed that the appeal be decided based on their written submissions.

A copy of this letter will appear as a notice in the **Federal Register** and any individual or group wishing to request recognition as a party will be entitled to file a petition pursuant to 45 CFR 213.15(b) with the Departmental Appeals Board within 15 days after that notice has been published. A copy of the petition should be served on each party of record at that time. The petition must explain how the issues to be considered have caused them injury and how their interest is within the zone of interests to be protected by the governing Federal statute. 45 CFR 213.15(b)(1). In addition, the petition must concisely state petitioner's interest in the proceeding, who will represent petitioner, and the issues on which petitioner wishes to participate. 45 CFR 213.15(b)(2). Additionally, if petitioner believes that there are disputed issues of fact which require an in-person hearing, petitioner should concisely specify the disputed issues of fact in the petition, and also state whether petitioner intends to present witnesses. Petitioners may also, within 15 days after this notice has been published, request extensions of the time for requesting participation for the purpose of obtaining and reviewing copies of the parties' written submissions.

Any party may, within 5 days of receipt of such petition, file comments thereon; the presiding officer will subsequently issue a ruling on whether and on what basis participation will be permitted.

Any interested person or organization wishing to participate as amicus curiae may also file a petition with the Board, which shall conform to the requirements at 45 CFR 213.15(c)(1). This petition, or a request for an extension of time to review the briefs, must be filed within 15 days after this

notice has been published, to permit the presiding officer an adequate opportunity to consider and rule upon it.

Upon the conclusion of proceedings in this matter, the presiding officer will issue a proposed decision. I will then issue the final decision of the Department. 45 CFR 213.22, 213.32.

Any further inquiries, submissions, or correspondence regarding this matter should be filed in an original and two copies with Mr. Garrett at the Departmental Appeals Board, Appellate Division, MS-6127, Room G-644, Cohen Building, 330 Independence Avenue, SW., Washington, DC 20201. For convenience please refer to Board Docket No. A-04-82. Electronic inquiries, submissions, or correspondence may be submitted by sending electronic mail (e-mail) to Jeffrey Sacks, Departmental Appeals Board Staff Attorney, at [jeffrey.sacks@hhs.gov](mailto:jeffrey.sacks@hhs.gov). Submit comments as an ASCII file avoiding the use of special characters and any form of encryption. The Board also accepts comments and data on disks in Word, WordPerfect or ASCII file format. Identify all submissions by Board Docket No. A-04-82.

The record in this matter, including the parties' written submissions, is available for public inspection. Interested persons or organizations may contact Jeffrey Sacks, Board Staff Attorney, at 202-565-0123 (or at [jeffrey.sacks@hhs.gov](mailto:jeffrey.sacks@hhs.gov)) to arrange for inspection and copying of the record. Each submission must include a statement that a copy of the submission has been sent to the other parties, identifying when and to whom the copy was sent. For convenience please refer to Board Docket No. A-04-82.

Dated: December 16, 2004.

**Wade F. Horn,**

*Assistant Secretary for Children and Families.*  
[FR Doc. 05-1452 Filed 1-26-05; 8:45 am]

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

#### Cellular, Tissue and Gene Therapies Advisory Committee (formerly the Biological Response Modifiers Advisory Committee); Notice of Meeting

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.