

**Department of Health and Human Services**  
**DEPARTMENTAL APPEALS BOARD**  
**Appellate Division**

New York State Office of Children & Family Services  
Docket No. A-13-61  
Decision No. 2515  
June 4, 2013

**DECISION**

The New York State Office of Children & Family Services (New York) appeals a determination by the Administration for Children and Families (ACF) to impose a penalty in the amount of \$289,649 under section 477 of the Social Security Act. A state that receives funds through the John H. Chafee Foster Care Independence Program (CFCIP) is required to collect and report a variety of data to ACF on a semi-annual basis, including data on each youth who receives independent living services paid for or provided by the state. 45 C.F.R. §§ 1356.81(a), 1356.82(a)(1), 1356.83(a). Despite receiving CFCIP funds, however, New York failed to submit any data on the independent living services paid for or provided to youth in the served population for the data reporting period ending September 30, 2012 (the “2012B” reporting period). New York admits that it failed to submit the required data, but argues that under the applicable regulations, it was subject to only a 1.25% penalty for violating “data standards” instead of the 2.5% penalty imposed by ACF for violating “file submission standards.”

New York previously appealed to the Board ACF’s determinations that New York’s failure to submit any data on the independent living services paid for or provided to youth in the served population for the two prior reporting periods, 2011B and 2012A, constituted violations of the file submission standard for timely data. On November 7, 2012, the Board issued *New York State Office of Children & Family Servs.*, DAB No. 2483, in which the Board upheld ACF’s determination for the 2011B reporting period. With the consent of the parties, on November 29, 2013, the Board issued *New York State Office of Children & Family Servs.*, DAB No. 2486, in which the Board upheld ACF’s determination for the 2012A reporting period, based on the analysis in DAB No. 2483.

The parties agree that there are no material factual differences, other than the reporting period at issue, between this case and the one decided by the Board in DAB No. 2483. The parties specifically agree that New York did not provide any data on the independent living services it paid for or provided to youth in the served population during the time period at issue here. Accordingly, New York notified the Board that it consents to the issuance of a summary decision in this appeal based on the analysis in DAB No. 2483. ACF also did not object to the issuance of a summary decision.

**Conclusion**

Based on the analysis in DAB No. 2483, which we incorporate by reference in its entirety, we uphold the penalty in full.

\_\_\_\_\_/s/  
Leslie A. Sussan

\_\_\_\_\_/s/  
Constance B. Tobias

\_\_\_\_\_/s/  
Sheila Ann Hegy  
Presiding Board Member