



Memorandum

APR 27 2001

Date *Michael Mangano*
Michael F. Mangano
From Acting Inspector General

Subject Audit of Title IV-E Foster Care and Other Grants' Payments for Child Care Claims at the North Carolina Department of Health and Human Services' Division of Child Development (A-04-98-00123)

To
Diann Dawson
Acting Principal Deputy Assistant Secretary
for Children and Families

This is to alert you to the issuance of our final report on Monday, April 30, 2001. A copy is attached.

The objective of our review was to determine whether the State was paid for unallowable Title IV-E and Other Grants' child care claims. Our review, which was made at the request of your office, included \$6.2 million (FFP) of Title IV-E claims for the period October 1, 1993 through October 31, 1997 and \$68.4 million (FFP) of Other Grants' line items for the period October 1, 1993 through June 30, 1995. These claims were prepared by a consultant under the direction of the State agency.

Our review indicated that the State was reimbursed over \$48 million for unallowable child care payments. This included:

- \$2.2 million for unallowable Title IV-E claims;
- \$31.2 million for unallowable At-Risk/CCDBG¹ line items;
- \$13.5 million for unallowable SSBG² line items; and
- \$1.3 million for other unallowable Title IV-E claims.

For most unallowable claims, the consultant that prepared the claims did not properly determine the allowability of the claims before assigning them to Title IV-E and Other Grants' child care and the State did not adequately review these claims before submission to the

¹Child Care for Families At-Risk of Welfare Dependency Grant/Child Care and Development Block Grant

² Social Services Block Grant

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Administration for Children and Families. In addition, the State's accounting system was not set up to identify which grant was used to pay for a child's care and the State did not maintain records that showed to which grant these payments were initially and subsequently assigned.

We are recommending that the State: (1) refund the \$48,183,445 (FFP) overpayment, (2) develop accounting procedures that identify the grant used to pay for a child's care, (3) maintain documentation to support eligibility for all child care claims for required periods, and (4) monitor its consultants to ensure that only allowable child care claims are filed for FFP. In written comments to our draft report, State officials disagreed with our findings and recommendations.

Any questions or comments on any aspect of this report are welcome. Please call me or have your staff contact Donald L. Dille, Assistant Inspector General for Administrations of Children, Family, and Aging Audits, at (202) 619-1175.

Attachment

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**AUDIT OF TITLE IV-E FOSTER CARE
AND OTHER GRANTS' PAYMENTS FOR
CHILD CARE CLAIMS AT THE NORTH
CAROLINA DEPARTMENT OF HEALTH
AND HUMAN SERVICES' DIVISION OF
CHILD DEVELOPMENT**



Inspector General

**APRIL 2001
A-04-98-00123**



REGION IV
Room 3T41
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8909

CIN: A-04-98-00123

Mrs. Carmen Hooker Buell, Secretary
North Carolina Department of Health
and Human Services
Adams Building, 101 Blair Drive
Raleigh, North Carolina 27603

Dear Secretary Buell:

Enclosed are two copies of a U.S. Department of Health and Human Services (HHS), Office of Inspector General (OIG), Office of Audit Services' (OAS) report entitled ***Audit of Title IV-E Foster Care and Other Grants' Payments for Child Care Claims at the North Carolina Department of Health and Human Services' Division of Child Development***. This audit covered the period October 1, 1993 through October 31, 1997. A copy of this report will be forwarded to the action official noted below for his/her review and any action deemed necessary.

Final determinations as to actions taken on all matters reported will be made by the HHS action official named below. We request that you respond to the HHS action official within 30 days from the date of this letter. Your response should present any comments or additional information that you believe may have a bearing on the final determination.

In accordance with the principles of the Freedom of Information Act (Public Law 90-23), OIG, OAS reports issued to the Department's grantees and contractors are made available, if requested, to members of the press and general public to the extent information contained therein is not subject to exemptions in the Act which the Department chooses to exercise (see 45 Code of Federal Regulations Part 5).

To facilitate identification, please refer to Common Identification Number (CIN) A-04-98-00123 in all correspondence relating to this report.

Sincerely yours,

Charles J. Curtis
Regional Inspector General
for Audit Services, Region IV

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Enclosures - as stated

Direct Reply to HHS Action Official:

HUB Director/Regional Administrator
Administration for Children and Families, Region IV
U.S. Department of Health and Human Services
61 Forsyth Street, S.W., Suite 4M60
Atlanta, Georgia 30303-8909

EXECUTIVE SUMMARY

BACKGROUND

State's Initial Claim

The Administration for Children and Families (ACF) requested this review of North Carolina's (State) retroactive claims for Title IV-E Foster Care child care funds for the period *October 1, 1993 through June 30, 1995*. In December 1995, the State submitted its original claim totaling \$6,896,528 Federal financial participation (FFP). The ACF deferred the State's claim because documentation the State submitted did not substantiate what appeared to be, in some cases, exorbitant child care expenditures.

First Revision of State's Claim

After agreeing with ACF's assessment of its claim, the State had its consultant revise the original claim. The State submitted this revised claim, totaling \$3,257,166 (FFP), to ACF on May 1, 1996. The ACF disallowed the State's entire claim based on ACF's concerns that other¹ U.S. Department of Health and Human Services' (HHS) grants (Other Grants) may have been used to pay for services now being charged to Title IV-E Foster Care. The State's claim for these Other Grants totaled about \$68 million (FFP).

Second Revision of State's Claim

On May 16, 1997, North Carolina appealed the disallowance to the HHS Departmental Appeals Board. In the meantime, the North Carolina State Auditor's Office also had similar concerns about the \$3,257,166 (FFP) revised claim. As a result of the State Auditors' concerns, the State initiated another revision of the claim. The State filed this revised claim, totaling \$3,175,646 (FFP) on May 11, 1998. Our audit includes this revised claim.

State's Subsequent Claims

The State filed two additional retroactive claims. One was filed for the period July 1, 1995 through December 31, 1995. The ACF disallowed this claim because it was filed after the allowable 2-year filing period. The other retroactive claim for \$3,071,081 (FFP) was filed on March 5, 1998 for the period January 1, 1996 through October 31, 1997. Our audit also included this claim.

¹ Other HHS grants included the Child Care for Families At-Risk of Welfare Dependency Grant (At-Risk Child Care), the Child Care and Development Block Grant (CCDBG), and the Social Services Block Grant (SSBG).

OBJECTIVE

The objective of our review was to determine whether the State was paid for unallowable Title IV-E and Other Grants' child care claims. Our review included \$6.2 million (FFP) of Title IV-E claims for the period October 1, 1993 through October 31, 1997 and \$68.4 million (FFP) of Other Grants' line items for the period October 1, 1993 through June 30, 1995.

SUMMARY OF FINDINGS

The State was reimbursed over \$48 million in unallowable child care payments. This included:

- \$2.2 million for unallowable Title IV-E claims;
- \$31.2 million for unallowable At-Risk/CCDBG line items;
- \$13.5 million for unallowable SSBG line items; and
- \$1.3 million for other unallowable Title IV-E claims.

In our opinion, these problems were the result of the State's inadequate review of its consultant-prepared claims. In addition, the State's accounting system was not set up to identify which grant was used to pay for a child's care and the State did not maintain records that showed which grant these payments were initially and subsequently assigned.

Title IV-E Claims

Our stratified random sample of 201 Title IV-E child care claims showed that 117 did not meet the requirements for FFP. As a result, we estimate that the State was paid for unallowable claims totaling \$2.2 million (FFP).

Of the 117 unallowable claims, 59 were unallowable for more than one reason such as:

- Applications were missing, did not contain complete information or were not approved.
- Attendance records were missing or had been destroyed.
- Vouchers/Action Notices were missing, did not match the application or were not approved.
- Child care that included unallowable social services.

- Documentation did not show the need for child care services and/or services were for reasons other than the foster parent(s)' employment.
- Eligibility for Aid to Families with Dependent Children (AFDC) was not documented.
- Original court orders with required language were missing, not issued within the 180 day required period, or not signed by a judge.
- Children were not placed in licensed Title IV-E Foster Care homes for the period of services reviewed.
- Payment codes indicated that services were for other than foster parent(s)' employment.
- Child care facilities were not licensed or registered by the State.
- Foster Care maintenance payments were not paid with Title IV-E funds.

At-Risk/CCDBG Line Items

Our stratified random sample of 100 At-Risk/CCDBG child care line items showed that 77 did not meet the requirements for FFP. As a result, we estimate the State was reimbursed for unallowable line items totaling \$31.2 million (FFP).

Of the 77 unallowable line items, 39 represented cases where the child care records were destroyed. Another six line items were unallowable for more than one reason such as:

- Attendance records were missing or had been destroyed.
- Vouchers/Action Notices were missing, did not match the application or were not approved.
- Applications were missing, did not contain complete information or were not approved.
- Child care related to education and training, not employment of parent(s) as required by At-Risk regulations.
- No documentation that child care facility was licensed or registered by the State during the period of services reviewed.

SSBG Line Items

Our random sample of 100 SSBG child care line items showed that 82 did not meet the requirements for FFP. As a result, we estimate the State was reimbursed for unallowable line items totaling \$13.5 million (FFP).

Of the 82 unallowable line items, 37 represented cases where the child care records were destroyed. Another 20 line items were unallowable for more than one reason such as:

- Attendance records were missing or had been destroyed.
- Applications were missing, did not contain complete information or were not approved.
- Vouchers/Action Notices were missing, did not match the application or were not approved.
- Maximum gross income was not considered.
- Need for child care was not documented.

Other Unallowable Title IV-E Claims

Through analysis of computer tapes the State provided, we identified:

- 7,749 unallowable claims for child care services totaling \$1,173,833 (FFP) that were for reasons other than the foster parent(s)' employment, and
- 886 unallowable claims totaling \$98,115 (FFP) that the consultant assigned from funding sources the State had already identified as not eligible for reimbursement under Title IV-E.

For most unallowable claims, the consultant did not properly determine the allowability of the claims before assigning them to Title IV-E and Other Grants' child care and the State did not adequately review these claims before submission to ACF.

Moreover, the State does not have an accounting system which identifies the child care grant used to pay for a child's care. The State acknowledged in its brief to the DAB (relative to its original claim which ACF disallowed) that it did not have an adequate accounting system in place to provide ACF with adequate documentation to verify that there would be no duplication of Federal funding or duplication of State matching in its claim for Title IV-E child care.

RECOMMENDATIONS

We recommend that the State:

- refund the \$48,183,445 (FFP) overpayment;
- develop accounting procedures that identify the grant used to pay for a child's care;
- maintain documentation to support eligibility for all child care claims for required periods; and
- monitor its consultants to ensure that only allowable child care claims are filed for FFP.

In written comments to our draft report, State officials disagreed with our findings and recommendations. The State officials' written comments and OIG's response to the State's comments are summarized in more detail after the **RECOMMENDATIONS** section of this report. The complete text of the State's comments is included in **Appendix G**.

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INTRODUCTION

BACKGROUND

State's Initial Claim

The ACF requested this review of North Carolina's (State) retroactive claims for Title IV-E Foster Care child care funds for the period *October 1, 1993 through June 30, 1995*. In December 1995, the State submitted its original claim totaling \$6,896,528 FFP. The ACF deferred the State's claim because documentation the State submitted did not substantiate what appeared to be, in some cases, exorbitant child care expenditures.

First Revision of State's Claim

After agreeing with ACF's assessment of its claim, the State had its consultant revise the original claim. The State submitted this revised claim, totaling \$3,257,166 (FFP), to ACF on May 1, 1996. The ACF issued a disallowance letter to the State based on ACF's concerns that other² HHS grants (Other Grants) may have been used to pay for services now being charged to Title IV-E Foster Care.

Second Revision of State's Claim

On May 16, 1997, North Carolina appealed the disallowance to the HHS Departmental Appeals Board. In the meantime, the North Carolina State Auditor's Office also had similar concerns about the \$3,257,166 (FFP) revised claim. As a result of the State Auditors' concerns, the State initiated another revision of the claim. The State filed this revised claim, totaling **\$3,175,646** (FFP), on May 11, 1998. Our audit includes this revised claim.

State's Subsequent Claims

The State filed two additional retroactive claims. One was filed for the period July 1, 1995 through December 31, 1995. The ACF disallowed this claim because it was filed after the allowable 2-year filing period. The other retroactive claim for **\$3,071,081** (FFP) was filed on March 5, 1998 for the period January 1, 1996 through October 31, 1997. Our audit also included this claim.

²Other HHS grants included the Child Care for Families At-Risk of Welfare Dependency Grant (At-Risk Child Care), the CCDBG, and the SSBG.

Title IV-E Foster Care Child Care and Other Grants' Child Care

For the period October 1, 1993 through October 31, 1997, the State had a revenue maximization contract with Deloitte and Touche (consultant). The contract provided for the consultant to prepare retroactive Title IV-E child care claims from claims that had previously been paid from other Federal and/or State sources. Under the State's methodology, all children who had received day care paid from Other Grants and State-only funds were identified. The State then determined from this population which children were eligible for Title IV-E day care services. The Title IV-E eligible children's "vacancies" were then back-filled with other children whose original care was paid with State-only funds.

Criteria applicable to Title IV-E and the Other Grants are as follows:

Title IV-E Child Care

Section 475 (4)(A) of the Social Security Act states that "*The term 'foster care maintenance payments' means payments to cover the cost of . . . daily supervision. . . .*" According to ACYF-PA-82-01 issued April 30, 1982, FFP may be claimed for Title IV-E eligible foster care children who receive child care based on the employment of the foster parents. The ACYF-CB-PIQ-97-01 issued March 4, 1997, reiterated that Title IV-E child care must be based on the employment of the foster parents.

At-Risk Child Care

The Catalog of Federal Domestic Assistance states that the purpose of At-Risk Child Care is: "*To allow States the option of providing child care to low-income families who are not receiving Aid to Families with Dependent Children (AFDC), who need child care in order to work, and who would otherwise be at-risk of becoming eligible for AFDC.*" Beneficiary eligibility is based on "*. . . approved applicants who are low-income working families with children.*"

CCDBG Child Care

The Catalog of Federal Domestic Assistance states that CCDBG provides funds: "*. . . to assist low-income families with child care services[;] . . . to increase the availability, affordability, and quality of child care[;] and to increase the availability of early childhood development and before- and after-school programs.*" Beneficiary eligibility is based on "*Children under age 13 (or up to age 19, if disabled), who reside with a family whose income does not exceed 75 percent of the State median income for a family of the same size, and reside with a parent (or parents) who is working or attending a job-training or educational program; or are in need of, or are receiving protective services.*"

SSBG Child Care

The Catalog of Federal Domestic Assistance states that SSBG provides funds: *“To enable each State to furnish social services best suited to the needs of the individuals residing in the State. Federal block grant funds may be used to provide services directed toward one of the following five goals specified in the law: (1) to prevent, reduce, or eliminate dependency; (2) to achieve or maintain self-sufficiency; (3) to prevent neglect, abuse, or exploitation of children and adults; (4) to prevent or reduce inappropriate institutional care; and (5) to secure admission or referral for institutional care when other forms of care are not appropriate.”*

North Carolina

The State’s Department of Health and Human Services (SDHHS) is the single State agency designated to administer the Foster Care program. The SDHHS’ Division of Social Services administers the Title IV-E Foster Care maintenance payments and the Division of Child Development (DCD) administers the Title IV-E Foster Care child care payments. The SDHHS also administers the At-Risk, CCDBG and SSBG child care grants.

OBJECTIVE, SCOPE AND METHODOLOGY

Objective

The objective of our review was to determine whether the State was paid for unallowable Title IV-E and Other Grants’ child care claims. Our review included \$6.2 million (FFP) of Title IV-E claims for the period October 1, 1993 through October 31, 1997 and \$68.4 million (FFP) of Other Grants’ line items for the period October 1, 1993 through June 30, 1995.

Scope

We selected and reviewed a stratified random sample of 201 Title IV-E child care paid claims. The sample was selected from a universe of claims totaling \$9.7 million (\$ 6.2 million, FFP) for the period October 1, 1993 through October 31, 1997. Our sampling unit was a child care claim. A claim refers to child care services provided to a Title IV-E Foster Care child during a month.

We also selected and reviewed a stratified random sample of 100 At-Risk and CCDBG line items from child care claims and an unrestricted random sample of 100 line items from SSBG child care claims. We sampled line items because multiple children with the same identification number were listed on the claims. Also, a child’s name on the claim could have multiple spellings of her/his name and/or have more than one unique identification number.

Prior to selecting our statistical samples, we analyzed the State’s claims which were provided to us on magnetic tapes prepared by the State’s consultant. We confirmed that all children listed on the tape had a unique identification number for Title IV-E claims. We identified and created a separate file for all claims where the reason for child care services was not employment of the

foster parent(s). We also identified and created a separate file of all claims with funding sources the State identified as not eligible for reimbursement under Title IV-E. These claims were not included in our sampling populations.

Details on our sampling methodology and projections are presented in **Appendices A, B, and C**. **Appendices D, E, and F** contain details for the sample units reviewed.

We reviewed applicable laws, regulations, Title IV-E and Other Grants' guidelines, and information obtained from State officials to determine whether the Title IV-E and Other Grants' child care claims were allowable for FFP.

Our internal control review of the SDHHS was limited to obtaining an understanding of the Title IV-E and Other Grants' child care programs. Internal controls were not tested because the objective of our review was accomplished through substantive testing.

We are also reviewing retroactive Title IV-E child care claims the State submitted for the period November 1, 1997 through March 31, 1999 and Other Grants' child care claims for the period January 1, 1996 through March 31, 1999. We will provide the results of these reviews in separate reports.

On September 22, 2000, we issued a draft of this report to State officials for comment on our findings and recommendations. On November 16, 2000, we held an exit conference with the State agency to discuss the draft report's findings and recommendations. On December 21, 2000, we received the State's written comments. One of the State agency's comments involved our use of criteria that the State did not believe was applicable to the entire period under audit. (See Page 15 of the State agency's written comments). Specifically, the State agency challenged our use of ACYF-CB-PIQ-97-01 as criteria for the entire time period covered by our audit. We have revised the report to include ACYF-PA-82-01 as criteria that was in effect during the time period covered by our audit and that 97-01 was merely a clarification of requirements that were in 82-01. (See Page 23 of this report.)

Methodology

The objective of our review was discussed with ACF regional and headquarters officials to identify requirements for the Title IV-E and Other Grants' child care programs. Applicable Federal regulations, the North Carolina State plans, the State's Child Day Care Services' Manual, the North Carolina Division of Social Services' Family Services' Manual, and work performed by the North Carolina Office of the State Auditor were also reviewed.

We prepared and used a review form to apply the program criteria and to identify any unallowable payments applicable to each sampled item. Prior to our review, we submitted these review forms to the State for its input and made all changes to our review forms suggested by the State.

For the 201 Title IV-E claims reviewed, supporting documentation was obtained from the State which typically included an application/authorization form, a voucher/action notice, the original court order, support for prior AFDC eligibility, foster care placement at the time of service, age of child, need for service, facility license/registration, origin of maintenance payments (must be Title IV-E), an attendance record and payment information.

For the 100 line items reviewed for At-Risk/CCDBG and the 100 line items reviewed for SSBG, supporting documentation obtained from the State typically included an application/authorization form, a voucher/action notice, need for service, income based on family size, age of child, facility license/registration, an attendance record and payment information.

We held discussions with State program officials and employees of the State's consultant as we reviewed the claims. During the course of our review, we made a "second request" from DCD staff for missing documentation. In cases where DCD staff provided adequate documentation, the claims and/or line items were considered allowable.

Field work was performed at the State's DCD office in Raleigh, North Carolina. Field work was conducted from May 1999 to September 1999. Audit field work was continued in the Raleigh Field Office through August 2000. Our audit was made in accordance with generally accepted government auditing standards.

FINDINGS AND RECOMMENDATIONS

The results of three statistical samples - **201 Title IV-E Foster Care child care claims, 100 At-Risk and CCDBG child care line items, and 100 SSBG child care line items** - showed that many of the claims and line items did not meet requirements for FFP. We also identified other unallowable Title IV-E claims that were in addition to those identified through our statistical sample. These additional claims were unallowable for FFP because they either were not related to the foster parent(s)' employment or were related to child care funding sources the State identified as not eligible for reimbursement under Title IV-E. As a result, the State was reimbursed over \$48 million in unallowable child care payments. The State's DCD staff agreed with our determination that supporting documentation was missing on claims and line items deemed to be unallowable.

In our opinion, these problems were the result of the State's inadequate review of its consultant-prepared claims. In addition, the State's accounting system was not set up to identify which grant was used to pay for a child's care and the State did not maintain records that showed to which grant these payments were initially and subsequently assigned.

Title IV-E Child Care Claims

Of the 201 claims sampled, 117 did not meet Title IV-E reimbursement requirements. As a result, we estimate that the State was reimbursed \$2,242,385 (FFP) for unallowable Title IV-E child care claims.

One hundred and seventeen claims were unallowable for various reasons:

- **Incomplete, Unapproved or Missing Applications**

Seventy-three claims either did not include an application, were based on an unallowable need, or included application/authorization forms that did not contain complete information necessary to determine child care eligibility under the Title IV-E program. Types of incomplete or missing information included the:

- need for services;
- applicant and authorization signatures; and
- authorization dates.

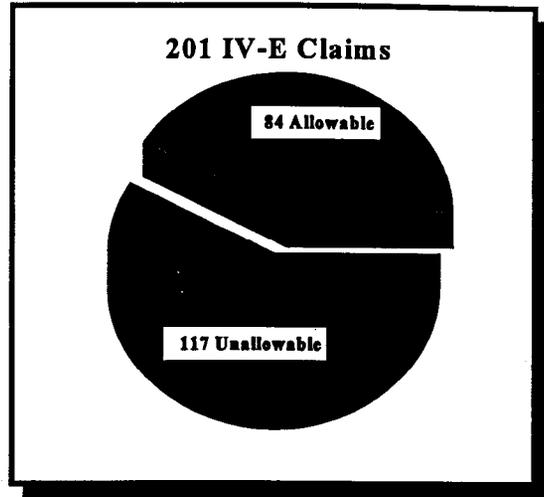
Two of the 73 claims had applications that were not approved. In North Carolina, the application form is used for determining eligibility and approving the service.

According to the State's Child Day Care Services (Manual), Part II, Chapter B, Section 1, Request for Services, A. "... *Families are not considered eligible for services until they sign a formal application. . . . 3. The [application] must be completed at the time of initial determination of eligibility as well as the routine redetermination of eligibility. A new application must also be completed and signed any time during the twelve month eligibility period that a change is reported which impacts eligibility for services.*"

Grant regulations under Title 45 Code of Federal Regulations (CFR) Section 74.21(b)(7) require that recipients' financial management systems include: "[a]ccounting records, including cost accounting records, that are supported by source documentation."

- **Attendance Records Were Missing or Had Been Destroyed**

Forty-eight claims had no attendance records. Attendance records are used to document services received and to authorize payments for child care services. Grant regulations under Title 45 CFR Section 74.21(b)(7) require that recipients' financial management systems



include: “[a]ccounting records, including cost accounting records, that are supported by source documentation.”

Child Day Care Law, North Carolina G.S. 110-91 (9) states “. . . Each day care facility shall keep accurate records on each child receiving care in the day care facility in accordance with a form furnished or approved by the Commission, and shall submit attendance reports as required by the Department. (August 11, 1993)

■ **Incomplete, Unapproved or Missing Vouchers/Action Notices**

Thirty-three claims either did not include a voucher/action notice or included forms that did not contain complete information necessary for determining Title IV-E eligibility. Types of incomplete and missing information included:

- need for services;
- applicant and authorization signatures; and
- authorization dates.

The Child Day Care Services Manual, Chapter 13: Voucher Procedures, A. states: “. . . *The intent of the voucher is to enable the parent to assume responsibility for the selection of the provider rather than the local purchasing agency arranging the care. The voucher serves as an agreement between the parent and the provider and is a mechanism which places the liability for the selection of a provider with the parent instead of with the agency. . . . C. . . . Only an initial voucher is needed, with subsequent ones issued when there is a change of provider. Once the voucher has been issued initially, it is not necessary to issue another one when the individual’s 12-month eligibility period ends. A Child Day Care Action Notice . . . is issued instead to document the new eligibility period.*”

■ **Title IV-E Child Care that Included Social Services**

Twenty-one claims were for developmental needs and behavior modification. These services were not allowable for Title IV-E reimbursement.

ACYF-PA-82-01 states that “ ‘Social services’ are not allowable cost items as title IV-E maintenance payments under any circumstances, regardless of what type of person provides them. Examples of unallowable “social services” are . . . counseling and therapy . . . These costs may be claimed under other programs, e.g., title IV-B or title XX (Social Services Block Grant Program) of the Act or a State-funded program”.

ACYF-CB-PIQ-97-01 reiterated that “. . . *therapeutic child care is a social service and is not an allowable expenditure under title IV-E foster care maintenance.*”

■ **No Documentation to Show Need for Service or Need Other Than Foster Parent(s)' Employment**

Fifteen claims had no indication that the foster parent(s) were employed or the claims stated the foster parents were not employed. Section 475 (4)(A) of the Social Security Act allows for "*foster care maintenance payments . . . to cover the cost of . . . daily supervision. . . .*"

According to ACYF-PA-82-01 issued April 30, 1982, FFP may be claimed for Title IV-E eligible foster care children who receive child care based on the employment of the foster parents. The ACYF-CB-PIQ-97-01 issued March 4, 1997, reiterated that Title IV-E child care must be based on the employment of the foster parents.

■ **Ineligible for AFDC or Eligibility Requirement Not Documented**

Fourteen claims were for children whose AFDC eligibility requirement was either not met or not documented. To be eligible for Title IV-E reimbursement, the foster child must have received or have been eligible to receive AFDC based on the placement of the child within the 6 months prior to being taken into custody by DSS.

According to 472(a) of the Social Security Act, a child receiving foster care maintenance payments must have been eligible to receive aid (AFDC) except for his removal from the home of a relative.

According to the North Carolina Division of Social Services, Family Services Manual, Volume I: Children's Services, Chapter IV - Foster Care Services 1205, IV-E Foster Care Assistance, Revised 9-1-93, IV. Eligibility Requirements for IV-E Foster Care Assistance, A. AFDC Eligibility, states "*The child must have been eligible for AFDC. . . .*"

■ **Original Court Orders with Required Language Were Missing, Not Issued Within the 180 Day Required Period, or Not Signed by a Judge**

Fourteen claims were for children whose file lacked documentation of foster care placement by a judge's timely, signed order containing required language. Foster care payments are allowable only if the foster child was removed by means of a judicial determination or a voluntary placement agreement. According to 472(a)(1) of the Social Security Act, if the removal was by judicial determination, the court order must contain language to the effect that the child's remaining at home would be contrary to his/her welfare and that reasonable efforts have been made to prevent the removal.

■ **Not Reimbursable Based on Child’s Placement During Month of Service**

Ten claims were for services provided during periods that the child was not in a licensed foster care home and consequently not reimbursable. The Social Security Act, Section 472 (c) states that *“For the purposes of this part, (1) the term “foster family home” means a foster family home for children which is licensed by the State in which it is situated or has been approved, by the agency of such State having responsibility for licensing homes of this type, as meeting the standards established for such licensing. . . .”*

According to the North Carolina Division of Social Services, Family Services Manual, Volume I: Children’s Services, Chapter IV - Foster Care Services 1205, IV-E Foster Care Assistance, Revised 9-1-93, I. General, “. . . A distinction should be made between eligibility and reimbursability. . . . Once established, a child’s eligibility will continue as long as need and deprivation continue and the child remains in the agency’s custody or placement responsibility. Reimbursability, however, may change on a monthly basis dependent upon the child’s placement. . . . The child has to be eligible and reimbursable for IV-E foster care assistance.”

■ **Payment Codes Other Than for Foster Parent(s)’ Employment**

Five claims had payment codes that were not for foster parent(s)’ employment. Section 475 (4)(A) of the Social Security Act states that *“The term ‘foster care maintenance payments’ means payments to cover the cost of . . . daily supervision. . . .”* According to ACYF-PA-82-01, FFP may be claimed for Title IV-E eligible foster care children who receive child care based on the employment of the foster parent(s).

The ACF recognized that a foster parent who is working while a foster child is not in school will have to arrange for some form of alternate care, such as day care, for the daily supervision of the child. However, ACF also recognized that the legislative history of Public Law (P.L.) 96-272 states that payments for the costs of providing care to foster children are not intended to include reimbursement in the nature of a salary for the exercise by the foster family parent of ordinary parental duties. Foster parents who are not employed would be able to exercise their ordinary parental duties. Thus, the child’s day care cost would not be reimbursable under Title IV-E Foster Care.

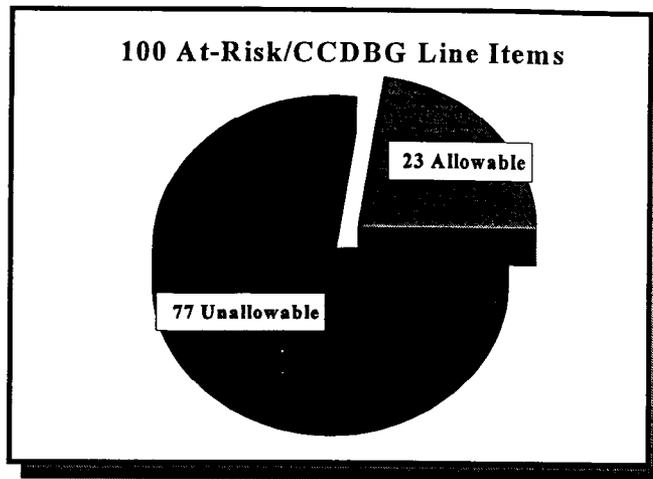
■ **No License or Registration for Child Care Facility**

Four claims were from child care facilities that had no State approved license or registration as required by Title IV-E.

Child Day Care Law, North Carolina G.S. 110-85 (3) requires “. . . Mandatory licensing of day care facilities under minimum standards; promotion of higher levels of day care than required for a license through the development of high standards which operators may

comply with on a voluntary basis; registration of child day care homes which are too small to be regulated through licensing; . . .” (August 11, 1993)

According to ACYF-CB-PIQ-97-01 issued March 4, 1997, “*Child care services for children in foster care must be rendered by a provider that is licensed, certified, or has some other formal status under State or local regulations in order for the State to claim reimbursement under title IV-E.*”



■ **Foster Care Maintenance Payments Not Paid by Title IV-E**

Four child care claims indicated that maintenance payments were not paid by Title IV-E. If Title IV-E did not pay for the child’s maintenance payment, Title IV-E cannot be used to pay for a child’s day care.

At-Risk/CCDBG Line Items

Of the 100 sampled line items, 77 did not meet At-Risk/CCDBG program requirements. As a result, we estimate that the State was reimbursed \$31,201,458 (FFP) for unallowable At-Risk/CCDBG child care costs.

Seventy-seven of the 100 line items were unallowable under the At-Risk/CCDBG programs for various reasons:

■ **Child Care Records Had Been Destroyed**

Thirty-nine line items had no supporting records because they had been destroyed. North Carolina’s Department of Health and Human Services’ policy gives counties permission to destroy certain records after a 3-year period.

Title 45 CFR, Sec. 74.53 sets forth requirements for records retention and records access. Section 74.53 (b), states: “*Financial records, supporting documents, statistical records, and all other records pertinent to an award shall be retained for a period of three years from the date of submission of the final expenditure report or, for awards that are renewed quarterly or annually, from the date of the submission of the quarterly or annual financial report. The only exceptions are the following: (1) If any litigation, claim, financial management review, or audit is started before the expiration of the 3-year*

period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved and final action taken.”

Title 45 CFR, Sec. 98.90 also sets forth requirements for records retention and records access. Section 98.90 (e), states: *“Length of retention period. (1) Except as provided in paragraph (e)(2) of this section, records specified in paragraph (c) of this section shall be retained for three years from the day the Grantee or subgrantee submits to the Secretary its final Financial Status Report . . . for the program period. (2) If any litigation, claim, negotiation, audit, disallowance action, or other action involving the records has been started before the expiration of the three-year retention period, the records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular three-year period, whichever is later.”*

The final version of the State’s first Title IV-E retroactive claim (claims for October 1, 1993 through June 30, 1995) was filed on May 11, 1998 and another retroactive Title IV-E claim (claims for January 1, 1996 through October 31, 1997) was filed on March 5, 1998. Therefore, it would be mandatory that documentation to support these claims be maintained for a 3-year period following the filing of the retroactive claims. However, since this review was begun during this 3-year period, documentation to support claims should have been maintained until the end of 3 years or until the resolution of all issues that arise from this review, whichever is later.

■ **Attendance Records Were Missing or Had Been Destroyed**

Thirty line items had no attendance records. Attendance records are used to document services received and to authorize payment for child care services. Grant regulations under Title 45 CFR 74.21(b)(7) require that recipients’ financial management systems include: *“[a]ccounting records, including cost accounting records, that are supported by source documentation.”*

Title 45 CFR 98.67 (c) requires that recipients’ *“Fiscal control and accounting procedures shall be sufficient to permit: . . . (2) The tracing of funds to a level of expenditure adequate to establish that such funds have not been used in violation of the provisions of this part.”*

Child Day Care Law, North Carolina G.S. 110-91 (9) states *“ . . . Each day care facility shall keep accurate records on each child receiving care in the day care facility in accordance with a form furnished or approved by the Commission, and shall submit attendance reports as required by the Department. (August 11, 1993)*

■ **Incomplete, Unapproved or Missing Vouchers/Action Notices**

Seven line items either did not include a voucher/action notice or included forms that did not contain complete information necessary for determining At-Risk/CCDBG eligibility. Types of incomplete or missing information included:

- need for services;
- applicant and authorization signatures; and
- authorization dates.

The Child Day Care Services Manual, Chapter 13: Voucher Procedures, A. states: “. . . *The intent of the voucher is to enable the parent to assume responsibility for the selection of the provider rather than the local purchasing agency arranging the care. The voucher serves as an agreement between the parent and the provider and is a mechanism which places the liability for the selection of a provider with the parent instead of with the agency. . . . C. . . Only an initial voucher is needed, with subsequent ones issued when there is a change of provider. Once the voucher has been issued initially, it is not necessary to issue another one when the individual’s 12-month eligibility period ends. A Child Day Care Action Notice . . . is issued instead to document the new eligibility period.*”

The CCDBG State Plan, Section 5.5 states “. . . *North Carolina chose a voucher which is issued to the parent, to take to the provider of her choice. The voucher form indicates the eligible child, period of eligibility, and applicable parent fees. . . .*”

■ **Incomplete, Unapproved or Missing Applications**

Six line items either did not include an application or included application/authorization forms that did not contain complete information necessary to determine At-Risk/CCDBG eligibility. Types of incomplete and missing information included:

- need for services;
- applicant and authorization signatures; and
- authorization dates.

According to the Child Day Care Services (Manual), Part II, Chapter B, Section 1, Request for Services, A. “. . . *Families are not considered eligible for services until they sign a formal application. . . . 3. The [application] must be completed at the time of initial determination of eligibility as well as the routine redetermination of eligibility. A new application must also be completed and signed any time during the twelve month eligibility period that a change is reported which impacts eligibility for services.*”

Title 45 CFR 98.65 Audits. states that “. . . *(e) Grantees must provide access to appropriate books, documents, papers and records to allow the Secretary to verify that Block Grant funds have been expended in accordance with the statutory and regulatory requirements of the program, and with the Plan.*”

The CCDBG State Plan, Section 3.1(C)(2) states “. . . *Parents apply for services at the county department of social services or its contract agency.*”

■ **Child Care Not Related to Employment of Parent(s)**

Two line items were for child care related to the education and training of the child’s parent(s). At-Risk regulations allow child care only for parent(s) who need child care in order to work.

Title 45 CFR Chapter II, Part 257.30 Eligibility - states “(a)A family is eligible for child care under this part provided the family: (1) Is low income, as defined in the approved State At-Risk Child Care plan; (2) Is not receiving AFDC; (3) Is at risk of becoming eligible for AFDC, as defined in the approved At-Risk Child Care plan; (4) Needs such child care in order to accept employment or remain employed; and (5) Meets such other conditions as the State may describe in its approved At-Risk Child Care plan.”

■ **No Documentation That Child Care Facility Licensed or Registered**

One line item was from a child care facility for which there was no documentation (Approval Notice) of State licensure or registration.

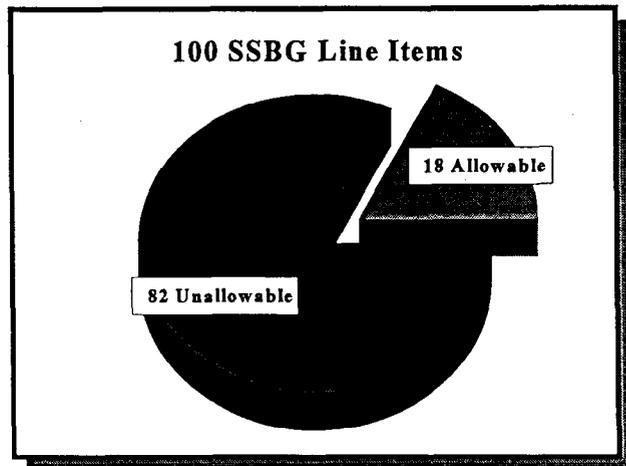
Child Day Care Law, North Carolina G.S. 110-85 (3) requires “. . . Mandatory licensing of day care facilities under minimum standards; promotion of higher levels of day care than required for a license through the development of high standards which operators may comply with on a voluntary basis; registration of child day care homes which are too small to be regulated through licensing; . . .” (August 11, 1993)

The Child Day Care Services Manual, Chapter 15: Payment Rates, B. Approval Notice, states: “The Approval Notice is the computer-printed form that provides notification to the local purchasing agency and the facility or small home that a caregiver is eligible to receive state and federal subsidy funds for children. . . . (T)he purchasing agency must have a current Approval Notice on file before paying any provider who will provide services for children receiving state and federal child day care funding.”

SSBG Line Items

Of the 100 sampled line items, 82 did not meet SSBG program requirements. As a result, we estimate that the State was reimbursed \$13,467,654 (FFP) for unallowable SSBG child care costs.

Eighty-two of the 100 line items were unallowable under the SSBG program for various reasons:



■ Child Care Records Had Been Destroyed

Thirty-seven line items had no records because they had been destroyed. As previously discussed, the State is required to maintain documentation to support these claims for a 3-year period following the filing of the retroactive claims or until audit findings are resolved, whichever is later.

Grant regulations under Title 45 CFR 96.30 Fiscal and administrative requirements state that: *“Except where otherwise required by Federal law or regulation, a State shall obligate and expend block grant funds in accordance with the laws and procedures applicable to the obligation and expenditure of its own funds. Fiscal control and accounting procedures must be sufficient to (a) permit preparation of reports required by the statute authorizing the block grant and (b) permit the tracing of funds to a level of expenditure adequate to establish that such funds have not been used in violation of the restrictions and prohibitions of the statute authorizing the block grant.”*

In addition, the State’s guidance to counties regarding retaining records can be found in the Records Retention and Disposition Schedule, Standard-6, issued on August 1, 1989 by the State Division of Archives and History, Department of Cultural Resources. According to the Schedule’s section entitled, Operational Records: Family Services Program Records, 5. Other Services Records File, Disposition Instructions: b., counties are to *“Destroy in office federal and state program records where the agency has not had custody and/or care of a child 3 years after case is closed unless included in a federal fiscal and/or program audit that is unresolved, then destroy in office when released from all audits.”*

■ Attendance Records Were Missing or Had Been Destroyed

Thirty line items had no attendance records. Attendance records are used to document services received and to authorize payment for child care services. Grant regulations under Title 45 CFR 96.30 Fiscal and administrative requirements state that: *“Except where otherwise required by Federal law or regulation, a State shall obligate and expend block grant funds in accordance with the laws and procedures applicable to the obligation and expenditure of its own funds. Fiscal control and accounting procedures must be sufficient to (a) permit preparation of reports required by the statute authorizing the block grant and (b) permit the tracing of funds to a level of expenditure adequate to establish that such funds have not been used in violation of the restrictions and prohibitions of the statute authorizing the block grant.”*

According to the Records Retention and Disposition Schedule, Standard-6 section entitled, Operational Records: Family Services Program Records, 5. Other Services Records File, Disposition Instructions: b., counties are to *“Destroy in office federal and state program records where the agency has not had custody and/or care of a child 3 years after case is closed unless included in a federal fiscal and/or program audit that is unresolved, then destroy in office when released from all audits.”*

Child Day Care Law, North Carolina G.S. 110-91 (9) states “. . . Each day care facility shall keep accurate records on each child receiving care in the day care facility in accordance with a form furnished or approved by the Commission, and shall submit attendance reports as required by the Department. (August 11, 1993)

■ **Incomplete, Unapproved or Missing Applications**

Twenty-one line items either did not include an application or included application/ authorization forms that did not contain complete information necessary to determine SSBG eligibility. Types of incomplete and missing information included:

- need for services;
- applicant and authorization signatures; and
- authorization dates.

According to the Child Day Care Services (Manual), Part II, Chapter B, Section 1, Request for Services, A. “. . . Families are not considered eligible for services until they sign a formal application. . . . 3. The [application] must be completed at the time of initial determination of eligibility as well as the routine redetermination of eligibility. A new application must also be completed and signed any time during the twelve month eligibility period that a change is reported which impacts eligibility for services.”

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The SSBG State Plan, Part II states “. . . The 100 county departments of social services will be responsible for determining eligibility for all other Block Grant-funded services, including services provided through . . . the Division of Child Development.”

Incomplete, Unapproved or Missing Vouchers/Action Notices

Fifteen line items either did not include a voucher/action notice or included forms that did not contain complete information necessary for determining SSBG eligibility. Types of incomplete and missing information included:

- need for services;
- applicant and authorization signatures; and
- authorization dates.

The Child Day Care Services Manual, Chapter 13: Voucher Procedures, A. states: “. . . *The intent of the voucher is to enable the parent to assume responsibility for the selection of the provider rather than the local purchasing agency arranging the care. The voucher serves as an agreement between the parent and the provider and is a mechanism which places the liability for the selection of a provider with the parent instead of with the agency. . . . C. . . . Only an initial voucher is needed, with subsequent ones issued when there is a change of provider. Once the voucher has been issued initially, it is not necessary to issue another one when the individual's 12-month eligibility period ends. A Child Day Care Action Notice . . . is issued instead to document the new eligibility period.*”

The Records Retention and Disposition Schedule, Standard-6., Operational Records: Family Services Program Records, 5., Other Services Records File, Disposition Instructions: b., state that counties are to “*Destroy in office federal and state program records where the agency has not had custody and/or care of a child 3 years after case is closed unless included in a federal fiscal and/or program audit that is unresolved, then destroy in office when released from all audits.*”

■ **Maximum Gross Income Not Considered**

Twelve line items showed no indication that maximum gross income had been considered in the process of determining eligibility, where required, based on type of need.

Maximum gross income of the family unit has to be considered for child care eligibility except when the need for services is either Child Protective Services, Child Welfare Services or Foster Care.

According to the Child Day Care Services (Manual), Part II, Chapter B, Section 5, Family Income, A. “*The source and the amount of family income are criteria used to determine whether day care services may be provided to persons in these three target populations:*

- *Day Care to Support Employment.*
- *Day Care to Support Training Leading to Employment.*
- *Day Care to Support the Developmental Needs of the Child.*”

Grant regulations under Title 45 CFR 96.30 Fiscal and administrative requirements state that: “*Except where otherwise required by Federal law or regulation, a State shall obligate and expend block grant funds in accordance with the laws and procedures applicable to the obligation and expenditure of its own funds. Fiscal control and accounting procedures must be sufficient to (a) permit preparation of reports required by the statute authorizing the block grant and (b) permit the tracing of funds to a level of expenditure adequate to establish that such funds have not been used in violation of the restrictions and prohibitions of the statute authorizing the block grant.*”

The SSBG State Plan , Part I B. states “. . . *Eligibility for certain services requires consideration of the income unit's monthly gross income. These services include 1) Child Day Care Services, . . .*”

■ **Need for Child Care Not Documented**

Eleven line items did not have documentation supporting the need for child care.

Grant regulations under Title 45 CFR 96.30 Fiscal and administrative requirements state that: *“Except where otherwise required by Federal law or regulation, a State shall obligate and expend block grant funds in accordance with the laws and procedures applicable to the obligation and expenditure of its own funds. Fiscal control and accounting procedures must be sufficient to (a) permit preparation of reports required by the statute authorizing the block grant and (b) permit the tracing of funds to a level of expenditure adequate to establish that such funds have not been used in violation of the restrictions and prohibitions of the statute authorizing the block grant.”*

Other Unallowable Title IV-E Claims

We identified unallowable Title IV-E claims totaling \$1,271,948 that were in addition to the unallowable claims identified through our statistical sample. These additional claims were unallowable because they either were not related to the foster parent(s)' employment or related to child care funding sources the State identified as not eligible for reimbursement under Title IV-E.

Through analysis of the “**need for services**” and “**funding sources**” shown on computer tapes from the State’s consultant, 7,749 unallowable claims for child care services totaling \$1,173,833 were not related to the foster parent(s)' employment and 886 unallowable claims totaling \$98,115 related to funding sources the State identified as not eligible for Title IV-E reimbursement.

■ **Claims for Title IV-E Foster Care Child Care Were Not Based on Employment of the Foster Parent(s)**

7,749 unallowable claims from the 1993-95 period totaling \$1,173,833 (FFP) were claimed as Title IV-E for unauthorized purposes. Of the 7,749 unallowable claims:

- 3,274 were for Child Protective Services;
- 2,209 were non-Title IV-E Foster Care;
- 1,396 were for Developmental Needs; and
- 870 were for Child Welfare Services.

■ Claims Paid by Other Funding Sources

886 unallowable claims from the 1996-97 period totaling \$98,115 (FFP) included services that had been paid with non-Title IV-E sources such as Smart Start, Family Support Act, or Transitional Child Care funds. Smart Start Funds are 100% State and private funds. Family Support Act and Transitional Child Care are already matched by Federal funds. According to the State's instructions to its consultant, payments from these unallowable sources were not to be used in compiling the State's retroactive claims for Title IV-E child care. Through mutual agreement with State officials and their consultant, we removed these unallowable claims from the universe of claims prior to selecting our statistical sample.

CLAIM PREPARATION

After two revisions, the State's original \$6.9 million (FFP) child care claim was reduced to \$3.2 million (FFP). These revisions stemmed from ACF and the State Auditor's concerns about the State:

- assigning claims to Other Grants retroactively without adequately determining that the claims were documented and allowable under these Other Grants' guidelines, and
- not identifying through its accounting system which grant was used to pay for a child's care.

These claims were prepared by the State's consultant under a revenue maximization contract. The consultant developed a computer program to extract the names of Title IV-E Foster Care child care-eligible children from the State's database. For most unallowable claims, the consultant did not properly determine the allowability of the claims before assigning them to Title IV-E and Other Grants' child care and the State did not adequately review these claims before submission to ACF.

Moreover, the State does not have an accounting system which identifies the child care grant used to pay for a child's care. The State acknowledged in its brief to the DAB (relative to its original claim upon which ACF levied a disallowance) that it did not have an adequate accounting system in place to provide ACF with adequate documentation to verify that there would be no duplication of Federal funding or duplication of State matching in its claim for Title IV-E child care.

RECOMMENDATIONS

We recommend that the State:

- refund \$48,183,445 (FFP) for the following:
 - \$3,514,333 for unallowable Title IV-E child care claims;
 - \$2,242,385 statistically sampled;
 - \$1,271,948 reviewed 100 percent outside the statistical sample;
 - \$31,201,458 for unallowable At-Risk/CCDBG child care line items; and
 - \$13,467,654 for unallowable SSBG child care line items.
- maintain documentation to support eligibility for all child care claims for required periods;
- develop accounting procedures that identify the grant used to pay for a child's care; and
- monitor its consultants to ensure that only allowable child care claims are filed for FFP.

State Agency's Comments and OIG's Response

In written comments to the draft report, State officials disagreed with our findings and recommendations. The State agency objected to our including the Other Grants' claims in our audit. However, once the State agency moved claims from one Federal grant to another in its "reassignment" process, it became necessary to test Other Grants' claims as well as the Title IV-E claims. By testing the Other Grants' claims we were able to determine whether recipients who were moved into these grants were eligible and if there were any duplications.

In addition, State officials said the draft report reflected: (1) short-comings in adherence to *Government Auditing Standards*; (2) regulation misinterpretation; (3) biases; and (4) inaccurate conclusions reached.

Compliance with Government Auditing Standards

The State agency argued that the OIG did not comply with government auditing standards during our audit in that the OIG did not: (1) review supporting documentation at the county offices; (2) review internal controls and perform substantive testing; (3) consider audit evidence; (4) rely on the single audit at the local level; (5) develop alternative audit procedures; and (6) treat missing sample items consistently compared to another OIG audit.

Records Sent to State Agency by Counties

The State agency objected to us not performing on-site reviews of supporting documentation at the county offices.

In order to make our review of sample cases more efficient, we mutually agreed with the State agency for the counties to send the supporting foster care and child care files to DCD. Otherwise we would have needed to go into 75 county offices to review the case files. The DCD wanted to assure the security of the files by having us examine them at its office in Raleigh. We did offer to visit a county office when there was a problem with some of the requested files. However, the State agency's liaison never arranged the visit.

As requested by the State agency, we apprized the State agency's liaison in November and December 1998 of the type of documentation that would be requested from counties and allowed the State agency to provide input on criteria to be reviewed for child care grants. We incorporated the suggestions we received in February 1999 from the State agency into our audit review sheets. However, the State agency did not provide the counties notice of the documentation we would need until after we selected our samples in April 1999.

Internal Control Reviews and Substantive Testing

The State agency indicated that we did not review internal controls or perform substantive testing.

As we discussed in the draft report, we limited our internal control review to obtaining an understanding of the Title IV-E and Other Grants' child care programs. However, we did observe that the State agency's accounting system did not show from which grant a child's care was paid and therefore, could not be relied upon. In addition, the third version of the 1993-1995 Title IV-E claim the State submitted still had \$1.2 million in unallowable claims assigned for FFP. Also, claim assignment did not agree with the agency's accounting records. Based on these and other observations, we decided not to rely on internal controls. Therefore, the objective of our review was accomplished through other acceptable auditing means by substantive testing of the 401 sample items.

The State agency also took issue with the size of our statistical samples.

Our statistical samples were selected following the Office of Inspector General (OIG) Office of Audit Services' policies and procedures. We prepared statistical sampling plans for reviewing the universes of claims, selected and reviewed statistically valid samples and projected the results to the universes.

Evidence

The State agency contended that we refused to consider other audit evidence.

We reviewed and considered all evidence provided to us by the county offices through the State agency in support of its claims. We are not aware of any instances in which evidence the State agency presented was not considered. The State did not give us any examples in which we did not consider evidence they provided to us.

Reliance on the Single Audit

The State agency commented that we did not review Single Audit work performed by independent auditors at the local level.

We did not review work performed by independent auditors at the local level. There are 100 counties in North Carolina and it would not have been practical or efficient to obtain and review the local Single Audit work. Also, our audit objective and sampling plan were focused on statewide conditions. However, we did review the single audit work performed by the State auditors relating to this audit and determined if the State Auditor's work could be relied on. Beyond the State Auditor's work, we also relied on statistical sampling and substantive testing to accomplish our objective.

Alternative Audit Procedures

The State agency stated that we should have developed alternative audit procedures such as contacting day care providers.

We did not contact any day care providers to request documentation for the State's claims because documenting the claims is the State agency's responsibility. In numerous instances, we gave the State agency an opportunity to provide documentation we initially requested. For example, we made an additional request for items missing from foster care and child care files. Over a period of several months, DCD staff exerted maximum efforts to obtain missing items from the counties. However, the counties were unable to provide some of the documentation necessary to support the allowability of these claims. Where supporting documentation was provided, we adjusted our audit results. It is the responsibility of the State agency to establish and support its claim.

Missing Sample Items

The State agency stated that we were inconsistent with another audit in the treatment of missing sample items.

The treatment of missing sample items is considered on an audit by audit basis. For the types of audits we typically perform, we consider the sample item an error if no supporting documentation is available for review. As stated in our sampling plan, if a file could not be

found for a child, we considered it an error. Without adequate supporting documentation, we could not ensure the child's eligibility or that services were actually authorized, received and claimed correctly.

Legal Criteria

The State agency asserted that part of our application of legal criteria was inaccurate in the areas of: (1) record retention requirements and notice that programs would be audited, (2) OIG's retroactive application of 1997 ACF policy interpretation, (3) State agency not following its own policies and procedures, (4) missing sample items information and information on the State's automated Subsidized Child Care Reimbursement System (SCCRS), and (5) missing attendance records.

Record Retention Requirement and Notice That Programs Would Be Audited

The State agency did not agree with our interpretation of the Federal record retention requirements. The State agency said that the records the OIG referred to as "being destroyed" are actually the records of subrecipients (counties and non-profit local purchasing agencies). In the State agency's opinion, the records retention requirements at 45 CFR 74.53 do not apply to subrecipients. The State agency also said that the OIG did not notify the subgrantees (counties and nonprofits) that they would be subject to audit. Therefore these subrecipients properly disposed of the records.

Part 74 requirements do apply to subrecipients that are participating in "entitlement programs" such as foster care. See Section 74.1(a)(3). Also, there is no requirement that the OIG notify the counties and non-profits that their records would be audited and should not be purged. The State agency filed the retroactive claim for child care services. As such, it is the State's responsibility to obtain and retain the documentation for its claims. We also believe the required record retention period had not expired since the final version of the Title IV-E child care claim for the period October 1, 1993 through June 30, 1995 was not filed until May 11, 1998. The State agency, as part of its process to file for Title IV-E child care, removed children paid from other Federal grants' child care to claim as Title IV-E child care. It then reassigned children paid with State funds. The reassigning of children from other Federal grants would leave those years' Other Grants' claims open also. The ACF did not require the State agency to file amended claims for the Other Grants because the State agency had already told ACF in a January 8, 1997 letter that it could not identify from which grant a specific child's care was paid.

Also, in its annual letter to the counties regarding record retention, the State agency directed the counties to purge files. It was not until May 27, 1999 that the State agency began informing the counties not to destroy files relating to our audit.

Retroactive Application of 1997 ACF Policy Interpretation

The State agency said the OIG's use of ACYF-CB-PIQ-97-01 was inappropriate because this criteria was not effective for the entire time period covered by the audit.

We believe that 97-01 is only providing clarification to requirements that are in ACYF-PA-82-01, dated April 30, 1982. For example, on page 7 of the audit report, we say that ACYF-CB-PIQ-97-01 states that therapeutic child care is a social service and is not an allowable expenditure under title IV-E foster care maintenance. These services would be covered under the "Social Services Block Grant". Page 2 of ACYF-PA-82-01, (c) under the heading of "Social services under family foster care or institutional foster care," provides examples of unallowable social services, specifically services involving counseling and therapy. Thus, we believe that a nexus exists between therapeutic child care services the State claimed and the unallowable social services type therapy discussed in PA-82-01.

Similarly on page 7 of the report we say....."Fifteen claims had no indication that the foster parent(s) were employed or the claims stated the foster parents were not employed. Section 475 (4)(A) of the Social Security Act allows for foster care maintenance payments . . . to cover the cost of . . . daily supervision. . . . According to ACYF-PA-82-01 issued April 30, 1982, FFP may be claimed for IV-E eligible foster care children who receive child care based on the employment of the foster parent(s)". Daily supervision is also discussed on page 2 of PA-82-01. The ACF recognizes that a foster parent who is working while a foster child is not in school will have to arrange for some form of alternate care, such as day care, for the daily supervision of the child. However, ACF also states that the legislative history of P.L. 96-272 states that payments for the costs of providing care to foster children are not intended to include reimbursement in the nature of a salary for the exercise by the foster family parent of ordinary parental duties. Also, ACYF-CB-PIQ-97-01 reiterated that FFP may be claimed for Title IV-E eligible foster care children who receive child care based on the employment of the parent(s). We believe that foster parents that are not employed would be able to exercise their ordinary parental duties. Thus, the child's day care cost would not be reimbursable under IV-E Foster Care.

State Agency Not Following Own Policies and Procedures

The State agency stated that its policies and procedures are discretionary and can be waived.

In our opinion, Federal regulations require States to develop and follow policies and procedures in order to obtain child care grant funds. The OMB Circular A-87, Attachment A, Section (C)(1)(c), requires that grant expenditures ". . . be authorized or not prohibited under State or local laws or regulations".

3

Missing Sample Items Information vs. Information on the SCCRS

The State agency indicated that the necessary supporting documentation is in the SCCRS.

We found the information in the SCCRS inconsistent. We also found numerous instances where the SCCRS indicated the need for child care services was “employment” of the foster parent. Documentation in the paper file for these same cases showed the need for child care services was Child Protective Services, Child Welfare Services, Training, Developmental Needs, etc.

In a letter to ACF dated January 8, 1997, the State agency said, “After extensive efforts by the Department and the revenue maximization contractor, we have concluded that we will be unable to document these claims retrospectively on a child specific basis. The information to do this does not reside in one data system and we have been unable to merge the child day care eligibility system and the child day care reimbursement system. At the time these systems were designed, their integration was not required for the management of the day care program.”

While the Department is now producing rosters of child care claims based on “need” for services, there is no where in the SCCRS that identifies which specific grant or funds were actually used to fund a specific child’s care. Therefore, adequate documentation is not housed in the SCCRS as the State contends.

Missing Attendance Records

The State agency argued that we did not review alternative documentation in instances where attendance records had been destroyed/purged and that child care was paid on an enrollment basis not attendance.

We agree that most day care facilities are paid based on enrollment and not attendance. However, it is essential that attendance sheets be required and reviewed by the counties to assure that the child is receiving services. These attendance records generate payments for child care. Attendance records help ensure that the child actually existed, received services and was not added to the roster in error. The State agency was required to maintain these records to support its claim.

Child Day Care Law, North Carolina G.S. 110-91 (9) states “ . . . *Each day care facility shall keep accurate records on each child receiving care in the day care facility in accordance with a form furnished or approved by the Commission, and shall submit attendance reports as required by the Department.* (August 11, 1993)

Biases

In its response, the State agency alleged several biases concerning revenue maximization and the use of consultants. These alleged biases centered around the:

- ▶ State agency’s maximization of Federal revenue and utilization of consultants; and
- ▶ lack of equity in the audit process.

Maximization of Federal Revenue and Utilization of Consultants

The State agency believes they were audited because they attempted to maximize revenue and used consultants in the process.

There is no bias against the State agency's maximization of Federal revenue or the utilization of consultants. However, we are very concerned about unsupported claims being filed for Federal reimbursement and the State agency's lack of oversight over the work performed by its consultant.

For example, in July 1997, the North Carolina State auditors reported a material weakness and a material noncompliance based on their audit of the State agency's 1993/1995 Title IV-E claim. Also in July 1997, the State's consultant prepared reports to support a revised 1993/1995 Title IV-E claim. This revised claim still had gross errors in the assignment of child care claims to the Other Grants. In addition, our current audit showed the consultant did not properly determine the allowability of the claims before assigning them to Title IV-E and Other Grants' child care and the State did not adequately review these claims before submission to ACF.

Equity

The State agency suggested that we should have given credit to another grant when a sample item was unallowable under the assigned grant.

It would not be statistically valid for us to substitute a sample item under one grant for another sample item under another grant. Moreover, it was the State agency's responsibility to accurately prepare and support its claims.

Inaccurate Conclusions

In its written comments, the State agency indicated there were errors and inconsistencies with the conclusions reached.

Report Matrices vs. Supporting Work Papers

The State agency stated that our working papers did not support the results shown in the audit report matrices (Appendix D, Stratum III). State officials also said that such incorrect working papers would have a material impact because these errors would be projected to the entire population as questioned costs.

The State agency did not recognize that the working papers were arranged in alphabetical order by child, whereas the report matrices were arranged in sample selection order. Regardless of how the cases were presented in the report and working papers, the results would have been the same. This was simply a sorting issue and would have no effect on the number of claims with

errors. Also, it could not affect the projection because we reviewed 100 percent of the Title IV-E claims in Stratum III. The total dollars questioned for Stratum III were \$23,586.

Other Error Attributes

The State agency took issue with the conclusions the auditors drew relative to certain questioned cases as follows:

Child Not Placed in Licensed Foster Care Home for Month of Service

The State agency stated it was now able to support Foster Home licensing for 9 of 10 sample items questioned for this reason.

We were not given access to the Foster Home licensing system until our review of the November 1997 through March 1999 samples. However, we made additional requests for documentation supporting any claims where the foster home licensing could not be determined from the file.

The additional documentation sent to us by the State agency with its response was not sufficient to determine whether the foster child was in the foster home for the period shown on the license. In addition, the cases affected by this licensing issue were also unallowable for other reasons.

Incomplete, Unapproved or Missing Applications (Title IV-E)

The State agency said that the OIG erred in thinking that an application was required for foster care.

We did not suggest that a child needs an application to be taken into foster care. The applications that we cite as missing were for **child care**. Regarding the need for an application for child care services, the State agency's *Child Day Care Services Manual (9/93)*, states that,

"A parent . . . must formally request child day care services by completing the written application form, DCD-0456. . . . Families are not considered eligible for services until they sign a formal application. . . ."

The State agency also asserted that in 17 of the 71 cases the OIG working papers either had a copy of an application or indicated that an application had been reviewed.

The State agency failed to recognize that some of these applications were prepared using forms designed in 1996. These application forms were purported to have been prepared in 1994. The other applications were for periods other than the one being reviewed or were for a case where the child care application had been terminated prior to the month(s) of service reviewed. Below are our specific comments on the six examples cited by the State agency.

Example 1 - The State agency noted that an application covering the proper time period was in our working papers. The State agency failed to point out that the application (sample items 3-1,

3-2, 3-3, 3-4, 3-5 for Title IV-E) that covered all 5 months reviewed was terminated on October 23, 1996 and the sample items were for November 1996, December 1996, January 1997, February 1997, and March 1997. No new application was issued for the months tested.

Examples 2 through 4 - These examples discussed by the State agency relate to the sorting issue discussed in the **Report Matrices vs. Supporting Work Papers** section (See page 24 of this report).

Example 5 - The State agency claimed we would not accept alternate forms used by a county that had all the necessary information.

Sample items 1-13, 1-15, 2-23, 2-24, 2-38 and 2-62 are from Mecklenburg County. Mecklenburg County sent a memo stating that the day care information for sample items 1-13, 1-15, 2-23 and 2-24 had been purged. We did accept an alternate form for the voucher for sample items 2-38 and 2-62. However, there was no application for either 2-38 or 2-62. In addition, 2-38 had no documentation of AFDC eligibility or an attendance record.

Example 6 - The State agency said that we indicated errors on two cases only because the applications were not signed by the social worker as approved.

Sample items 2-65 and 2-66 were questioned because in addition to not having a signature in the approval position, the approval box was not checked and no dates for services were entered as required. Therefore, we could not determine the appropriate period of the services and if the services were properly approved.

Day Care that Included Social Services

The State agency argued that we questioned cost simply because they were for high dollar amounts.

We did not question the claims because they were for high dollar amounts. We questioned the claims because the care included social services. The total questioned costs relative to the 21 claims that included social services was \$23,586. In addition, 13 of these 21 claims were also unallowable for other reasons.

Payment Codes Other than for Foster Parent(s)' Employment

The State agency said that 4 of 5 Title IV-E claims disallowed for not having employment of the Foster parents as the reason for child care did have the proper codes in the SCCRS (sample items 1-85, 2-12, 2-28, 2-58 and 1-24).

For sample item 1-85, the application and other supporting case file documentation showed that the service was for "Developmental Needs" and nothing indicated that foster parent(s) worked. Sample item 2-12's application and other supporting documentation showed that service was for "Child Welfare Services" and nothing indicated that foster parent(s) worked. For sample item 2-

“Child Welfare Services” and nothing indicated that foster parent(s) worked. For sample item 2-28, the county did not send a file for this claim and the claim could not be found on the SCCRS either. Sample item 2-58 had an excess payment of \$22 that had not been recouped. We only questioned the \$22, not the entire payment. For sample item 1-24, as the State agency noted in its written comments, the service was coded as “Training” which is not an allowable reason for Title IV-E child care.

Foster Care Maintenance Payments Not Paid by Title IV-E

The State agency claimed it now has located documentation that maintenance payments for two of four claims were paid by Title IV-E (1-14 and 2-68).

Sample item 1-14 was also missing an application and attendance record. For sample item 2-68, the county sent a memo stating that no foster care or child care file could be found for this child. Consequently, not only would this payment be unallowable, but the “maintenance payment” for this child would also be unallowable.

Ineligible for AFDC or Eligibility Requirement Not Documented

The State agency said it now can document through the Eligibility Information System that 5 of 14 children received AFDC payments (Sample items 1-25, 1-42, 1-52, 1-67 and 2-68).

The case file for Sample item 1-25 contained a form that stated “Not on AFDC or Medicaid at time of removal”. Sample item 1-42's case file documentation showed that no “foster care” file was available for this child, so AFDC eligibility could not be confirmed. The case file for sample item 1-52 contained no documentation of AFDC; however, the documentation did show that the foster father did not work and wanted the child to go to child care to “interact with other younger children”. This is an unallowable reason for Title IV-E child care. The case file for sample item 1-67 did not have documentation of AFDC eligibility and the child care information was not available. For sample item 2-68 the county said that neither the child care or foster care files were available.

Voucher/Action Notices

The State agency stated that sample item 98 for SSBG had an approved voucher in our working papers and that sample item 1-10 for Title IV-E had been purged because it was over 3 years old.

For sample item 98, SSBG, the voucher included in the case file did not show the days or hours of service and no service codes other than Non-FSA were checked. This voucher was the only child care information available for this child. Sample item 1-10, Title IV-E, had a memo from the county stating that no foster care or child care file is available. These cases were questioned because the child care was not documented.

No License or Registration for Child Care Facility

The State agency stated that two of five facilities we identified as having no license or registration were licensed during the time frame audited and that the remaining three were county approved “non-registered homes” (4 Title IV-E cases and 1 At-Risk case).

Title IV-E

Sample item 1-20's file contained a note from the county stating that the provider was not licensed. This claim was also missing the application and nothing in the file indicated the foster parent(s) worked. The Title IV-E maintenance payment system showed a different child with this child's I.D. number.

For sample item 1-24, the application showed Child Protective Services as the need for child care, while other information in the file showed child care was for “Training”. Both training and child protective services are unallowable for Title IV-E child care. The turnaround document the State provided with its written comments had a different facility I.D. number and does not show a license number.

For sample item 2-28, no file was sent for this child and the child was not found on the SCCRS.

For sample item 2-30, the application and SCCRS showed “Work First Family Assistance” and the voucher for the month after the month tested shows “Child Welfare Services.” The claim was also missing the voucher for the month of service we reviewed and the attendance record had been purged.

At-Risk

Sample item 1-25 was not on the State agency's SCCRS at the time we performed our review. The turnaround document the State agency sent with its written comments does not show a license number. The case file for this line item showed that the type of service was “Training” which was not allowed for “At-Risk” child care. The attendance record was also missing.

Judge's Original Determination with Required Action and/or Verbiage Missing or Not Signed (Title IV-E)

The State agency indicated that they have now found two of the missing orders. However, the State agency did not provide a copy of the orders along with its written comments.

Maximum Gross Income Not Considered (SSBG)

The State agency said that at least 8 of 12 cases had no income requirements.

We agree that some child care can be offered without regard to income. However, consideration of income is a requirement for SSBG child care.

The SSBG State Plan , Part I B. states “ . . . *Eligibility for certain services requires consideration of the income unit’s monthly gross income. These services include 1) Child Day Care Services, . . .*”

Documentation of Reason for 13-Year Old Receiving Day Care Services

The State agency said that it had obtained additional documentation supporting the one case identified as an error in this category.

In its written response, the State agency said they contacted the local county social services department and determined the social worker documented that the child could not be left alone at home for safety reasons while the parent worked. The State agency did not provide any documentation other than this statement. Moreover, at the time of our field work, the county provided us a note stating that in 1994, justification was not required and that no documentation was available.

This case was also questioned for 3 other reasons - (1) missing AFDC documentation, (2) missing voucher, and (3) missing attendance record, which according to the county, had been purged.

Other Unallowable Title IV-E Claims

The State agency said that the use of a computer data base to assess questioned costs is diametrically opposed to the OIG’s position of not accepting data in the State agency’s computer data base to support State expenditures for the Title IV-E claims.

We questioned these “Other Unallowable Title IV-E Claims” because the State agency indicated that only Funding Source 25, Non-FSA (Family Support Act) was allowable for assignment of Title IV-E child care claims. We identified 886 unallowable claims from the 1996-97 period totaling \$98,115 (FFP) that included services assigned to Title IV-E from unallowable funding sources such as Smart Start, Family Support Act, or Transitional Child Care funds. Smart Start Funds are 100% State and private funds. Family Support Act and Transitional Child Care are already matched by Federal funds.

Also, according to Federal requirements, the only allowable reason for Title IV-E child care is for the employment of the foster parent(s). We identified 7,749 unallowable claims from the 1993-95 period totaling \$1,173,833 (FFP) that included services assigned to Title IV-E from unallowable needs for service such as Child Protective Services, non-Title IV-E Foster Care, Developmental Needs and Child Welfare Services.

According to the State’s instructions to its consultant, payments from these unallowable sources were not to be used in compiling the State’s retroactive claims for Title IV-E child care. Through mutual agreement with State officials and their consultant, we removed these unallowable claims from the universe of claims prior to selecting our statistical sample. We see

no conflict in our rationale for questioning these costs. Therefore, no change to our conclusions is warranted regarding the allowability of these claims.

APPENDICES

SAMPLING METHODOLOGY AND RESULTS OF SAMPLE**Title IV-E Child Care****OBJECTIVE**

The objective of this sample was to determine whether the Title IV-E Foster Care claims made for child care services between October 1, 1993 and October 31, 1997 met applicable guidelines.

POPULATION

The population was the 31,230 monthly claims for child care services charged to Title IV-E Foster Care between October 1, 1993 and October 31, 1997. The assignment to specific funding sources was created by Deloitte and Touche from data furnished by SDHHS.

The population was stratified as follows:

Stratum	Dollar Range	# of Monthly Claims
1	.01 - 200.00	10,267
2	200.01 - 1,000.00	20,942
3	Over 1,000.00	21
Total		31,230

No official claim was filed for the quarter ended September 30, 1995 and the one filed for the quarter ended December 31, 1995 was filed after the two-year reimbursement period and was denied by ACF. Claims for these periods are not included in the sample.

SAMPLE UNIT

The sampling unit was a child care claim for 1 month's services for one client paid with Title IV-E Foster Care funds.

SAMPLE DESIGN

A stratified random sample was used. We decided to review 100% of the items over \$1,000 and the remaining population was divided into two strata using the "Cumulative Square Root of the Frequency" method.

SAMPLE SIZE

One hundred percent of the 21 claims greater than \$1,000 were reviewed. A random sample of 90 from each of the other two strata were then obtained for a total sample of 201 Title IV-E claims.

SAMPLING METHODOLOGY AND RESULTS OF SAMPLE

Title IV-E Child Care

ESTIMATION METHODOLOGY

Using the HHS-OIG-OAS RAT-STATS Variables Appraisal Program for stratified samples, we projected the overpayment that resulted from reimbursements for ineligible and unallowable claims.

RESULTS OF SAMPLE

Stratum	Dollar Range	Number of Claims	Sample Size	Number of Errors	Value of Errors
1	.01 - 200.00	10,267	90	51	\$4,121.46
2	200.01 - 1000.00	20,942	90	45	9,398.23
3	Over 1000.00	21	21	21	23,585.94
Total		31,230	201	117	\$37,105.63

PROJECTION OF SAMPLE

Point Estimate \$2,680,617

90% Confidence Level

Lower Limit	\$2,242,385
Upper Limit	\$3,118,849
Precision Amount	\$ 438,232
Precision Percent	16.35%

SAMPLING METHODOLOGY AND RESULTS OF SAMPLE**CCDBG and At-Risk Child Care****OBJECTIVE**

The objective of this sample was to determine whether CCDBG and the Child Care for Families at Risk of Welfare Dependency Grant (At-Risk) claims made for child care services between October 1, 1993 and June 30, 1995 met applicable guidelines.

POPULATION

The population was the 360,552 line item expenditures for clients for child care services charged to CCDBG or At-Risk between October 1, 1993 and June 30, 1995. The assignment to specific funding sources was created by Deloitte and Touche from data furnished by the SDHHS.

The population was stratified as follows:

Stratum	Dollar Range	# of Line Items
1	.01 - 200.00	225,253
2	200.01 - 2000.00	135,299
Total		360,552

SAMPLE UNIT

The sampling unit was a line item charge for child care where payment was assigned to either CCDBG or At-Risk.

SAMPLE DESIGN

A stratified random sample was used. The population was divided into two strata using the "Cumulative Square Root of the Frequency" method.

SAMPLE SIZE

A sample of 50 line item charges from each stratum was selected. There are two strata with a total sample size of 100.

ESTIMATION METHODOLOGY

Using the HHS-OIG-OAS RAT-STATS Variables Appraisal Program for stratified samples, we projected the overpayment that resulted from reimbursements for ineligible and unallowable line items.

SAMPLING METHODOLOGY AND RESULTS OF SAMPLE

CCDBG and At-Risk Child Care

Stratum	Dollar Range	Number of Line Items	Sample Size	Number of Errors	Value of Errors
1	.01 - 200.00	225,253	50	37	\$2,067.25
2	200.01 - 2000.00	135,299	50	40	9,910.03
Total		360,552	100	77	\$11,977.28

PROJECTION OF SAMPLE

Point Estimate \$36,129,428

90% Confidence Level

Lower Limit \$31,201,458
Upper Limit \$41,057,399
Precision Amount \$ 4,927,971
Precision Percent 13.64%

SAMPLING METHODOLOGY AND RESULTS OF SAMPLE**SSBG Child Care****OBJECTIVE**

The objective of this sample was to determine whether the SSBG claims made for child care services between October 1, 1993 and June 30, 1995 met applicable guidelines.

POPULATION

The population was the 92,867 line item expenditures for clients for child care services charged to SSBG between October 1, 1993 and June 30, 1995. The assignment to specific funding sources was created by Deloitte and Touche from data furnished by the SDHHS.

SAMPLE UNIT

The sampling unit was a line item charge for child care services where payment was assigned to SSBG.

SAMPLE DESIGN

An unrestricted random sample was used.

SAMPLE SIZE

A sample of 100 line item charges was selected.

ESTIMATION METHODOLOGY

Using the HHS-OIG-OAS RAT-STATS Variables Appraisal Program for unrestricted samples, we projected the overpayment that resulted from reimbursements for ineligible and unallowable line items.

RESULTS OF SAMPLE

Number of Line Items	Sample Size	Number of Errors	Value of Errors
92,867	100	82	\$18,919.60

SAMPLING METHODOLOGY AND RESULTS OF SAMPLE

SSBG Child Care

PROJECTION OF SAMPLE

Point Estimate \$17,570,065

90% Confidence Level

Lower Limit \$13,467,654

Upper Limit \$21,672,476

Precision Amount \$ 4,102,411

Precision Percent 23.35%

TITLE IV-E CHILD CARE CLAIMS
Summary of Sample Review

	Stratum	Number	Unallowable FFP	Unallowable for the Following Reasons:															Total
				1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	
53	1	53	0.00																0
54	1	54	0.00																0
55	1	55	0.00																0
56	1	56	0.00																0
57	1	57	0.00																0
58	1	58	0.00																0
59	1	59	0.00																0
60	1	60	0.00																0
61	1	61	0.00																0
62	1	62	0.00																0
63	1	63	0.00																0
64	1	64	0.00																0
65	1	65	0.00																0
66	1	66	0.00																0
67	1	67	61.49			✓				✓		✓				✓			4
68	1	68	0.00																0
69	1	69	0.00																0
70	1	70	0.00																0
71	1	71	0.00																0
72	1	72	0.00																0
73	1	73	117.55							✓	✓								2
74	1	74	116.92			✓													1
75	1	75	127.72	✓															1
76	1	76	113.37			✓													1
77	1	77	107.97			✓					✓					✓			3
78	1	78	63.54			✓													1
79	1	79	121.61			✓													1
80	1	80	97.11			✓													1
81	1	81	0.00																0
82	1	82	0.00																0
83	1	83	0.00																0
84	1	84	0.00																0
85	1	85	104.25			✓												✓	2
86	1	86	0.00																0
87	1	87	125.95			✓													1
88	1	88	0.00																0
89	1	89	0.00																0
90	1	90	0.00																0
			4,121.46	7	1	32	0	0	9	3	9	6	16	1	2	24	2	0	
Strata 1 - Total with errors:																			51
Strata 1 - Total with more than 1 error:																			25

TITLE IV-E CHILD CARE CLAIMS
Summary of Sample Review

	Stratum	Number	Unallowable FFP	Unallowable for the Following Reasons:															Total	
				1	2	3	4	5	6	7	8	9	10	11	12	13	14	15		
143	2	53	0.00																	0
144	2	54	0.00																	0
145	2	55	195.71	✓																1
146	2	56	0.00																	0
147	2	57	0.00																	0
148	2	58	14.06															✓		1
149	2	59	0.00																	0
150	2	60	0.00																	0
151	2	61	0.00																	0
152	2	62	266.11			✓														1
153	2	63	224.13			✓														1
154	2	64	0.00																	0
155	2	65	400.46					✓												1
156	2	66	249.17					✓												1
157	2	67	0.00																	0
158	2	68	174.39			✓			✓	✓	✓	✓	✓					✓		7
159	2	69	0.00																	0
160	2	70	171.81			✓														1
161	2	71	0.00																	0
162	2	72	0.00																	0
163	2	73	0.00																	0
164	2	74	0.00																	0
165	2	75	210.20																✓	1
166	2	76	0.00																	0
167	2	77	0.00																	0
168	2	78	180.17																✓	1
169	2	79	0.00																	0
170	2	80	0.00																	0
171	2	81	184.08			✓														1
172	2	82	240.92			✓														1
173	2	83	0.00																	0
174	2	84	266.11			✓														1
175	2	85	180.17			✓														1
176	2	86	190.97			✓														1
177	2	87	193.81			✓														1
178	2	88	0.00																	0
179	2	89	0.00																	0
180	2	90	0.00																	0
			9,398.23	8	0	29	0	2	2	1	5	4	15	1	2	24	3	0		

Strata 2 - Total with errors:	45
Strata 2 - Total with more than 1 error:	21

TITLE IV-E CHILD CARE CLAIMS
Summary of Sample Review

	Stratum	Number	Unallowable FFP	Unallowable for the Following Reasons:															Total
				1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	
181	3	1	662.38														✓	1	
182	3	2	659.34			✓											✓	2	
183	3	3	659.34			✓											✓	2	
184	3	4	659.34			✓											✓	2	
185	3	5	659.34			✓											✓	2	
186	3	6	659.34			✓											✓	2	
187	3	7	758.40														✓	1	
188	3	8	758.40														✓	1	
189	3	9	758.40														✓	1	
190	3	10	1,034.38														✓	1	
191	3	11	1,034.38														✓	1	
192	3	12	1,223.62														✓	1	
193	3	13	1,344.67			✓											✓	2	
194	3	14	1,344.67			✓											✓	2	
195	3	15	1,344.67			✓											✓	2	
196	3	16	1,344.67			✓											✓	2	
197	3	17	1,344.67			✓											✓	2	
198	3	18	1,395.36														✓	1	
199	3	19	1,938.29						✓								✓	2	
200	3	20	1,993.16						✓								✓	2	
201	3	21	2,009.12						✓								✓	2	
			23,585.94	0	0	10	0	0	3	0	0	0	0	0	0	0	0	21	
																		Strata 3 - Total with errors:	21
																		Strata 3 - Total with more than 1 error:	13
Totals for IV-E			37,105.63	15	1	71	0	2	14	4	14	10	31	2	4	48	5	21	
																		Total IV-E with errors:	117
																		Total IV-E with more than 1 error:	59

Legend:

(1) Need for child care either missing or not for employment of foster parent/s.
(2) Documentation of reason for a child 13 or older receiving services missing.
(3) Application for service month tested missing.
(4) Application not signed by foster parent/authorized representative.
(5) Application was not approved.
(6) Judges' original determination with required action and/or verbiage missing or not signed.
(7) Foster Care maintenance payments not paid by IV-E.
(8) AFDC eligibility missing or child not eligible.
(9) Child not placed in a licensed foster home for month of service so not reimbursable.
(10) Voucher/Action Notice for service month tested missing or missing services to be provided.
(11) Voucher/Action Notice not approved or did not match application.
(12) Child care provider not licensed/registered for service month tested.
(13) Attendance record for service month tested missing.
(14) Payment codes indicated for other than foster parent/s employment.
(15) Payments questioned based on primary need for care being unallowable social services.

CCDBG/AT-RISK CHILD CARE LINE ITEMS
Summary of Sample Review

	Stratum	Number	Grant	Unallowable FFP	Unallowable for the Following Reasons:												Total	
					1	2	3	4	5	6	7	8	9	10	11	12		
1	1	1	CCDBG	1.00												✓	1	
2	1	2	CCDBG	1.00												✓	1	
3	1	3	CCDBG	1.00												✓	1	
4	1	4	CCDBG	1.00												✓	1	
5	1	5	CCDBG	1.00			✓										1	
6	1	6	CCDBG	195.00									✓				1	
7	1	7	CCDBG	173.00												✓	1	
8	1	8	CCDBG	1.00												✓	1	
9	1	9	AR	0.00													0	
10	1	10	CCDBG	12.00												✓	1	
11	1	11	AR	0.00													0	
12	1	12	CCDBG	166.00												✓	1	
13	1	13	AR	0.00													0	
14	1	14	AR	0.00													0	
15	1	15	AR	0.00													0	
16	1	16	AR	98.36												✓	1	
17	1	17	CCDBG	6.30												✓	1	
18	1	18	CCDBG	0.00													0	
19	1	19	CCDBG	74.00												✓	1	
20	1	20	CCDBG	90.00												✓	1	
21	1	21	AR	10.26												✓	1	
22	1	22	AR	76.21									✓				1	
23	1	23	CCDBG	1.00			✓										1	
24	1	24	AR	0.00													0	
25	1	25	AR	83.05	✓							✓	✓				3	
26	1	26	AR	0.00													0	
27	1	27	CCDBG	107.55									✓				1	
28	1	28	CCDBG	35.20												✓	1	
29	1	29	CCDBG	14.00												✓	1	
30	1	30	CCDBG	1.00												✓	1	
31	1	31	AR	23.81									✓				1	
32	1	32	CCDBG	0.00													0	
33	1	33	AR	61.93									✓				1	
34	1	34	CCDBG	0.00													0	
35	1	35	AR	81.37									✓				1	
36	1	36	CCDBG	152.00												✓	1	
37	1	37	CCDBG	0.00													0	
38	1	38	CCDBG	86.75									✓				1	
39	1	39	CCDBG	1.00			✓										1	
40	1	40	CCDBG	0.00													0	
41	1	41	CCDBG	195.00												✓	1	
42	1	42	CCDBG	21.00												✓	1	
43	1	43	AR	21.84									✓				1	
44	1	44	AR	3.52									✓				1	
45	1	45	CCDBG	1.00												✓	1	
46	1	46	CCDBG	42.00												✓	1	
47	1	47	CCDBG	152.00									✓				1	
48	1	48	CCDBG	1.00			✓										1	
49	1	49	AR	74.10												✓	1	
50	1	50	CCDBG	0.00													0	
				2,067.25	1	0	4	0	0	0	0	0	0	1	11	0	22	
Strata 1 - Total with errors:																	37	
Strata 1 - Total with more than 1 error:																	1	

CCDBG/AT-RISK CHILD CARE LINE ITEMS
Summary of Sample Review

	Stratum	Number	Grant	Unallowable FFP	Unallowable for the Following Reasons:												Total	
					1	2	3	4	5	6	7	8	9	10	11	12		
51	2	1	AR	142.69										✓				1
52	2	2	CCDBG	303.00										✓				1
53	2	3	AR	247.53										✓				1
54	2	4	CCDBG	377.00										✓				1
55	2	5	CCDBG	0.00														0
56	2	6	CCDBG	315.00										✓				1
57	2	7	CCDBG	265.50													✓	1
58	2	8	AR	152.07			✓				✓							2
59	2	9	AR	189.56													✓	1
60	2	10	CCDBG	343.00							✓			✓				2
61	2	11	CCDBG	282.00													✓	1
62	2	12	AR	179.14													✓	1
63	2	13	CCDBG	259.00													✓	1
64	2	14	CCDBG	405.00										✓				1
65	2	15	AR	177.63										✓				1
66	2	16	AR	0.00														0
67	2	17	AR	170.67										✓				1
68	2	18	AR	0.00														0
69	2	19	CCDBG	375.00													✓	1
70	2	20	AR	141.35										✓				1
71	2	21	CCDBG	161.78													✓	1
72	2	22	CCDBG	327.00			✓				✓							2
73	2	23	CCDBG	255.00													✓	1
74	2	24	CCDBG	336.00													✓	1
75	2	25	AR	197.92													✓	1
76	2	26	AR	198.64										✓				1
77	2	27	AR	152.72							✓			✓				2
78	2	28	CCDBG	202.86										✓				1
79	2	29	AR	131.36								✓						1
80	2	30	AR	181.19													✓	1
81	2	31	CCDBG	272.00							✓							1
82	2	32	CCDBG	260.00													✓	1
83	2	33	CCDBG	372.00										✓				1
84	2	34	CCDBG	368.00										✓				1
85	2	35	AR	0.00														0
86	2	36	CCDBG	0.00														0
87	2	37	AR	0.00														0
88	2	38	CCDBG	324.00													✓	1
89	2	39	CCDBG	218.10										✓				1
90	2	40	CCDBG	268.00													✓	1
91	2	41	CCDBG	0.00														0
92	2	42	CCDBG	0.00														0
93	2	43	CCDBG	260.00										✓				1
94	2	44	CCDBG	295.00													✓	1
95	2	45	CCDBG	0.00														0
96	2	46	AR	0.00														0
97	2	47	AR	179.79													✓	1
98	2	48	CCDBG	276.00													✓	1
99	2	49	AR	188.91										✓				1
100	2	50	AR	158.62	✓						✓			✓				3
9,910.03					1	0	2	0	0	0	0	6	1	0	19	0	17	
Strata 2 - Total with errors:																	40	
Strata 2 - Total with more than 1 error:																	5	

CCDBG/AT-RISK CHILD CARE LINE ITEMS
Summary of Sample Review

Stratum	Number	Grant	Unallowable FFP	Unallowable for the Following Reasons:												Total
				1	2	3	4	5	6	7	8	9	10	11	12	
Totals for CCDBG/At-Risk			11,977.28	2	0	6	0	0	0	6	1	1	30	0	39	
Total CCDBG/At-Risk with errors:															77	
Total CCDBG/At-Risk with more than 1 error:															6	

Legend:

(1) Need for child care either missing or not for allowable reason.
(2) Documentation of reason for a child 13 or older receiving services missing.
(3) Application for service month tested missing.
(4) Application not signed by parent/authorized representative.
(5) Application was not approved.
(6) Documentation of maximum gross income being within limits missing.
(7) Voucher/Action Notice for service month tested missing or did not match application.
(8) Voucher/Action Notice not approved.
(9) Child care provider not licensed/registered for service month tested.
(10) Attendance record for service month tested missing.
(11) Category codes did not agree to allowable child care codes.
(12) Supporting documentation destroyed.

SSBG CHILD CARE LINE ITEMS
Summary of Sample Review

Number	Unallowable FFP	Unallowable For the Following Reasons:												Total
		1	2	3	4	5	6	7	8	9	10	11	12	
1	206.75										✓			1
2	0.00													0
3	217.75												✓	1
4	38.00												✓	1
5	920.00												✓	1
6	368.00										✓			1
7	0.00													0
8	0.00													0
9	375.00							✓						1
10	1,689.00										✓			1
11	167.50												✓	1
12	38.00												✓	1
13	0.00													0
14	0.00													0
15	290.00	✓		✓				✓						3
16	325.00			✓										1
17	152.00			✓										1
18	390.00										✓			1
19	209.00										✓			1
20	217.00												✓	1
21	287.00			✓			✓	✓			✓			4
22	42.00												✓	1
23	442.00												✓	1
24	24.00												✓	1
25	38.00												✓	1
26	0.00													0
27	355.00										✓			1
28	0.00													0
29	268.00												✓	1
30	0.00													0
31	268.00												✓	1
32	108.00												✓	1
33	18.00												✓	1
34	0.00													0
35	272.00												✓	1
36	0.00													0
37	273.00										✓			1
38	42.00					✓								1
39	38.00												✓	1
40	408.00												✓	1
41	38.00			✓							✓			2
42	282.00												✓	1
43	295.00	✓		✓			✓	✓						4
44	389.00												✓	1
45	145.60	✓		✓			✓	✓			✓			5
46	285.00												✓	1
47	0.00													0
48	311.00												✓	1
49	1,646.00										✓			1
50	180.20						✓				✓			2

SSBG CHILD CARE LINE ITEMS
Summary of Sample Review

Number	Unallowable FFP	Unallowable For the Following Reasons:												Total		
		1	2	3	4	5	6	7	8	9	10	11	12			
51	29.75	✓		✓			✓	✓								4
52	4.40													✓		1
53	377.00	✓		✓												2
54	57.60							✓				✓				2
55	81.70													✓		1
56	286.00			✓								✓				2
57	119.60			✓			✓	✓								3
58	20.00													✓		1
59	53.55											✓				1
60	42.00											✓				1
61	263.00	✓		✓			✓	✓								4
62	350.00			✓												1
63	195.00													✓		1
64	390.00											✓				1
65	247.00													✓		1
66	0.00															0
67	42.00											✓				1
68	276.00	✓		✓			✓	✓								4
69	38.00													✓		1
70	42.00											✓				1
71	0.00															0
72	87.75													✓		1
73	398.00													✓		1
74	0.00															0
75	0.00															0
76	35.00													✓		1
77	77.70											✓				1
78	38.00											✓				1
79	260.00													✓		1
80	7.00											✓				1
81	15.00											✓				1
82	351.00													✓		1
83	166.40			✓								✓				2
84	38.00													✓		1
85	442.00													✓		1
86	29.75													✓		1
87	148.95													✓		1
88	0.00															0
89	0.00															0
90	246.00	✓		✓			✓	✓								4
91	7.00			✓				✓				✓				3
92	0.00															0
93	17.00											✓				1
94	303.00											✓				1
95	114.40													✓		1
96	286.00	✓		✓			✓	✓								4
97	340.00	✓		✓			✓									3
98	160.00	✓		✓			✓		✓			✓				5
99	346.00											✓				1
100	33.25							✓				✓				2

SSBG CHILD CARE LINE ITEMS
Summary of Sample Review

Number	Unallowable FFP	Unallowable For the Following Reasons:												Total
		1	2	3	4	5	6	7	8	9	10	11	12	
	18,919.60	11	0	20	0	1	12	14	1	0	30	0	37	
Total SSBG with errors:													82	
Total SSBG with more than 1 error:													20	

Legend:

(1) Need for child care either missing or not for allowable reason.
(2) Documentation of reason for a child 13 or older receiving services missing.
(3) Application for service month tested missing.
(4) Application not signed by parent/authorized representative.
(5) Application was not approved.
(6) Documentation of maximum gross income being within limits missing.
(7) Voucher/Action Notice for service month tested missing or did not match application.
(8) Voucher/Action Notice not approved.
(9) Child care provider not licensed/registered for service month tested.
(10) Attendance record for service month tested missing.
(11) Category codes did not agree to allowable child care codes.
(12) Supporting documentation destroyed.



North Carolina Department of Health and Human Services
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James B. Hunt Jr., Governor

H. David Bruton, M.D., Secretary

December 20, 2000

DEC 21 2000

Reference: CIN: A-04-98-00123

C. 0000000000

Mr. Charles J. Curtis
Regional Inspector General for Audit Services, Region IV
Room 3T41, Atlanta Federal Center
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8909

Dear Mr. Curtis:

Thank you for the opportunity to respond to the OIG Audit of Title IV-E Foster Care Payments for Child Care Claims at the North Carolina Department of Health and Human Services' Division of Child Development for the four year period October 1, 1993 through October 31, 1997. We have carefully reviewed the report and supporting audit working papers. This review leaves us with serious concerns regarding both the validity of the audit process and the resulting conclusions set forth in the audit report

GENERAL COMMENTS

The entire audit process was critically flawed in a number of ways that cast serious doubt on the credibility of the audit.

- The audit methodology did not comply with *Government Auditing Standards*, an audit requirement for OIG audits
- The legal criteria cited for the audit findings and questioned costs were improper. In particular, the auditors' findings relating to most of the questioned claims were based on "missing documentation," notwithstanding the fact that the required period of record retention had expired before the audit commenced and before the State had

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notice that the programs in question would be audited. The audit findings are also based on improper retroactive application of a 1997 ACF policy transmittal. Moreover, the auditors improperly used State policies/procedures that are not required by Federal law to question costs.

- There were biases stated in the audit report against the State for maximizing Federal revenue and utilizing consultants to assist in the project as well as biases shown by inequitable stances taken during the audit process.
- The audit reflected errors and inconsistencies in the conclusions reached.

On its face, something is inherently wrong with the report. The audit examined a \$6.2 million dollar IV-E claim and concluded that \$ 48.2 million was unallowable, a 774% increase over the total IV-E claim. Further, the OIG audit questioned costs of \$ 48.2 million out of Federal funding of \$ 76.4 million audited, 63% of the federal funding audited. Beyond this superficial anomaly, a closer examination of the specifics make the audit process and conclusions even more problematic.

Background

In North Carolina, the provision of subsidized day care services is administered by county agencies (county-operated departments of social services and other local purchasing agencies [LPA]) who determine eligibility and purchase day care services for eligible clients under policies promulgated by the N.C. Division of Child Development. Funding for day care is available from a variety of Federal sources such as At-Risk Child Care, Child Care Development Block Grant (CCDBG), Social Services Block Grant (SSBG) and IV-E Foster Care. Children are often eligible for several grants, thus, it is at the State's option and best interest to choose the most beneficial funding formula subject to the availability of funding. Eligibility data for the children is entered into a computer-based system by the various counties/local purchasing agencies responsible for determining eligibility and authorizing the purchase of day care services. Since a child is usually eligible for multiple grants, i.e. CCDBG, At-Risk, SSBG and

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IV-E federal funding, the State utilizes a categorical eligibility process wherein children are pooled based upon various eligibility criteria. Qualifying child care expenditures are typically applied to available funding through a hierarchical approach using the more restrictive grants first and then utilizing grants with lesser restrictions. The hierarchical approach allows excess eligible children (costs) for one grant to be used in another less restrictive grant that they are also eligible for, etc.

During the time period audited, eligible expenditures for each of the grants significantly exceeded Federal funding available with the State picking up the tab for the shortfall. The State was initially unaware of the availability of IV-E funding for child care; therefore, IV-E funds were not requested at the time funds were expended. As it was, the State lost significant Federal funding due to the fact that the two year period of filing reimbursement claims had expired in a number of instances before the State could file timely claims for IV-E funding. During the audit period, over \$ 20 million in 100% State funds were expended above Federal funds and the associated State matching funds. Thus, ACF's concerns over duplicate funding had no substance. These facts no doubt played a part in ACF's subsequent acquiescence of their claim denial when the State appealed to the Department Appeals Board (DAB). However, ACF then initiated the current OIG audit.

Audit Objectives

We strongly object to the manner in which the audit was expanded from the original ACF complaint of duplicate funding and eligibility for the IV-E grant (\$ 6.2 million) and expanded to encompass other day care grants totaling over \$ 68 million. The stated ACF objection to paying the IV-E claim was whether the State used Federal funds from one program to provide the state match for another or otherwise included expenditures of federal funds from one program for another. In other words, the ACF objection centered on whether the State had duplicated child care claims when filing retroactive reimbursement claims for \$ 6.2 million and eligibility for the IV-E children. The State furnished data that showed State expenditures far exceeded the total of

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Federal funds and required State matching funds. In fact, there was still over \$ 20 million of pure State funding after the State matching requirement was fulfilled.

By expanding the audit to include all day care grants, the OIG parlayed this \$ 6.2 million in IV-E funding into a payback of \$ 48.2 million. It is evident that this 774% increase above the original IV-E reimbursement claim is based upon more than the original audit objective of verifying that the amended claim did not include duplicate reimbursement. The OIG was able to find very few instances of ineligible costs in spite of the expansion of the audit to include eligibility for other grants. Instead, the audit focused on county subrecipient records that had been destroyed after three years and declared the claims associated with those records to be unallowable. This inappropriate treatment can only be part of a broader OIG initiative that has produced other revenue maximization audits with equally exorbitant questioned costs.

The OIG mission statement identifies the various ways in which the agency purports to improve operations and services to recipients of HHS programs. One of the OIG measures is its results in "millions of dollars recovered from misspent funds." [OIG Mission Statement] In essence, the OIG equates questioned costs with savings, efficiencies and effectiveness. In this and certain other audits, however, questioned costs have little to do with savings. The State has expended these dollars for valid and allowable FFP purposes. The OIG and ACF are attempting to avoid day care costs eligible for Federal funding and transfer those costs to State government. This is contrary to and violates the Congressional intent when Congress appropriated funding for the purpose of providing day care to needy families.

It is clear that ACF's strict interpretations and instructions to the OIG were designed to generate exorbitant paybacks to reduce federal outlays. The audit was, in effect, a means to allow ACF to retroactively deny the IV-E claim that had just been approved for payment and to recoup still more federal funds that had validly been reimbursed to the State

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Scope and Methodology

The auditors essentially chose a long-distance mail-order approach in attempting to audit, from Raleigh, county records located at subrecipient county offices scattered throughout the State. This approach eschewed reviews of the internal controls in the counties, review of independent CPA workpapers for the various Single Audits, site visits, interviews with staff involved in the day care process and review of other records in the County offices that might provide alternative documentation despite the fact that the subrecipient counties were the source of the majority of the information audited. *Government Auditing Standards* can not be met under such limitations. Thus, the audit process was materially compromised.

- **Internal Control Reviews and Substantive Testing.** In the scope section of the audit report, the auditors stated:

“internal control review of the NCDHHS was limited to obtaining an understanding of the IV-E and Other Grants’ child care programs. Internal controls were not tested because the objective of our review was accomplished through substantive testing.”

Government Auditing Standards require a review of internal controls; however, internal controls were not reviewed at either the State or local/county level. In addition, we can not agree that substantive testing was conducted. For example, the CCDBG and At-Risk Child Care audited sample consisted of 100 claims out of 360,552 claims. In other words, 1 claim out of every 3,605 claims was audited. In our opinion, this does not qualify as substantive testing.

- **Evidence.** The OIG audit report states that the audit was conducted in accordance with generally accepted government auditing standards (GAGAS). However, the auditor’s refusal to consider other audit evidence at the local level, (only hard copies of documents, such as attendance reports were considered), does not comply with generally accepted government auditing standards.

Section 6.47 of the *Government Auditing Standards* states:

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"Evidence may be categorized as *physical, documentary, testimonial, and analytical*. Physical evidence is obtained by auditors' direct inspection or observation of people, property, or events. Such evidence may be documented in memoranda, photographs, drawings, charts, maps, or physical samples. *Documentary evidence* consists of created information such as letters, contracts, accounting records, invoices, and management information on performance. *Testimonial evidence* is obtained through inquiries, interviews, or questionnaires. *Analytical evidence* includes computations, comparisons, separation of information into components, and rational arguments." (Emphasis added.)

- **Failure to rely on the County Single Audit.** Although the Office of the OIG contacted the North Carolina Office of the State Auditor, they did not contact or review work performed by independent auditors at the county level who had performed Single Audit work for the various counties. Eligibility and purchase of day care services is determined at the local level. Day care disbursements are made by the County Finance Office based on documentation submitted to the local department of social services and finance office. Missing documentation, such as "missing attendance records," that was purged/destroyed after three years in accordance with the Record Retention Manual had already been subjected to a Single Audit upon which State and Federal auditors are supposed to rely.

Circular A-133, which implements the Single Audit Act, states:

"An audit made in accordance with this part shall be in lieu of any financial audit required under individual Federal awards. To the extent this audit meets a Federal agency's needs, it shall rely upon and use such audits."

While this federal Circular does not limit the authority of Federal to conduct or arrange for additional audits, it does require that "any additional audits shall be planned and performed in such a way as to build upon work performed by other auditors." The OIG audit process ignored this requirement. The OIG working papers did not indicate any contact with county auditors.

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- **Alternative Audit Procedures.** There is no disagreement that records were generally destroyed after three years in accordance with normal record retention guidelines as stated in the OIG audit; however, alternative audit procedures could have been employed that would have negated this as a finding. Even day care providers could have been contacted. The auditors apparently made no such effort.

- **Missing Sample Items.** This IV-E audit is also inconsistent in its approach to "missing sample items" with another current OIG audit for NC DHHS. Audit A-04-97-001-9 states in the Sample Planning Document that:
 - "Missing sample items will be treated as \$ 0 errors... These sample items will also be treated as \$ 0 errors." (Audit A-04-97-001-9)
 - However, the current IV-E day care audit states in its Sample Planning Document that: "In the event that a file cannot be located for the month that the client's day care services were received, the sample item will be considered an error." [Current audit W/P I-2]

The latter OIG position regarding missing files in the current IV-E day care audit assumes that the claims were ineligible/unallowable for Federal participation when, in fact, the claim was an eligible/allowable expenditure. Despite thousands of hours expended during the audit process, the OIG auditors found extremely few cases of ineligible/unallowable expenditures. The fact that records were purged in accordance with the Record Retention Manual and federal regulations after three years is addressed separately in this response. Without the inappropriate reliance on purged or "missing county records," the audit has little in the way of material findings. Yet, the audit is recommending over \$ 48 million be refunded to the Federal government.

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Government Auditing Standards

The audit report states on page 4 that the audit was conducted "in accordance with generally accepted government auditing standards." We have to disagree with this assertion for several reasons including those stated under the Scope and Methodology response. Chapter 4 of *Government Auditing Standards* (Revised May 1999), entitled Fieldwork Standards, sets out several of the applicable standards (emphasis is added):

4.21 AICPA standards and GAGAS require the following:

"Auditors should obtain a sufficient understanding of internal control to plan the audit and determine the nature, timing, and extent of tests to be performed."

"4.21.1 AICPA standards and GAGAS require that, in all audits, auditors obtain an understanding of internal control sufficient to plan the audit by performing procedures to understand (1) the design of controls relevant to an audit of financial statements and (2) whether the controls have been placed in operation. This understanding should include a consideration of the methods an entity uses to process accounting information because such methods influence the design of internal control. The extent to which computerized information systems are used in significant accounting applications, as well as the complexity of that processing, may also influence the nature, timing, and extent of audit procedures. Accordingly, in planning the audit and in obtaining an understanding of internal control over an entity's computer processing, auditors should consider, among other things, such matters as:

- a. the extent to which computer processing is used in each significant accounting application,
- b. the complexity of the entity's computer operations,
- c. the organizational structure of the computer processing activities, and
- d. the kinds and competence of available evidential matter, in electronic and in paper formats, to achieve audit objectives."

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"4.21.2 AICPA standards and GAGAS require auditors to document their understanding of the components of an entity's internal control related to computer applications that process information used in preparing an entity's financial statements and, based on that understanding, to develop a planned audit approach in sufficient detail to demonstrate its effectiveness in reducing audit risk. In doing so, under AICPA standards and GAGAS, auditors should consider whether specialized skills are needed for considering the effect of computerized information systems on the audit, understanding internal control, or designing and performing audit procedures, including tests of internal control. If the use of a professional with specialized skills is planned, auditors should have sufficient computer-related knowledge to communicate the objectives of the other professional's work; to evaluate whether the specified procedures will meet the auditors' objectives; and to evaluate the results of the procedures applied as they relate to the nature, timing, and extent of other planned audit procedures... "

"4.22 Safeguarding of assets and compliance with laws and regulations are internal control objectives that are especially important in conducting financial statement audits in accordance with GAGAS of governmental entities or others receiving government funds... "

Working Papers. 4.34 AICPA standards and GAGAS require the following:

"4.38 One factor underlying GAGAS audits is that federal, state, and local governments and other organizations cooperate in auditing programs of common interest so that auditors may use others' work and avoid duplicate audit efforts. Arrangements should be made so that working papers will be made available, upon request, to other auditors."

In summary, the OIG did not test internal controls at either the State or county levels despite the fact that this was a financial-related audit, nor did they meet with local CPAs to review

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applicable working papers. It is clear that the IV-E audit process had critical flaws and shortcomings as to adherence to generally accepted government auditing standards.

Audit Report Conclusions

The audit report concludes that the State should:

- “refund the \$48,183,445 (FFP) overpayment,
- develop accounting procedures that identify the grant used to pay for a child’s care,
- maintain documentation to support eligibility for all child care claims for required periods,
- monitor its contractors to ensure that only allowable child care claims are filed for FFP.”

However, when the window dressing is removed, the audit findings have little substance. The most serious issue is that of missing county documentation where files were purged in accordance with federal policy and the Record Retention and Disposition Schedule. The OIG audit report skews the findings and, by its presentation, portrays the day care program as being rife with errors. The audit report appendices are designed to emphasize different elements of missing documentation. The brunt of the matter, however, is that without missing records and the associated “questioned costs,” there is little to report. The appendices in the original draft (D, E and F) reflect the reasons and cost associated with each child reviewed. Close examination of this data reveals the following:

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	IV-E Grant		CCDBG/At-Risk Grant		SSBG Grant	
	#	Percentage	#	Percentage	#	Percentage
Total # of Claims Reviewed by OIG	<u>201</u>	<u>100.00%</u>	<u>100</u>	<u>100.00%</u>	<u>100</u>	<u>100.00%</u>
Total Claims Deemed Ineligible	<u>117</u>	<u>58.21%</u>	<u>77</u>	<u>77.00%</u>	<u>82</u>	<u>82.00%</u>
Reasons for Ineligible Claims:						
Ineligible due to Missing Documentation	98	83.76%	76	98.70%	80	97.56%
Other Than Missing Documentation	19	16.24%	1	1.30%	2	2.44%
Total Claims Deemed Ineligible	<u>117</u>	<u>100.00%</u>	<u>77</u>	<u>100.00%</u>	<u>82</u>	<u>100.00%</u>

- **The matrices in the back of the audit report are inconsistent.** The IV-E matrix lists multiple missing documents/errors (as many as 9 per case) for various cases when in reality the entire files were destroyed in accordance with federal policy and record retention requirements. This portrays a worse "error number" picture than the admission that the entire file was missing. At the same time, missing documentation errors in the CCDBG/At-Risk and SSBG grants were treated differently in that one attribute was used: "Supporting documentation destroyed."
- **The matrices in the back of the draft audit report are not always supported by the working papers.** For example, on the IV-E Grant, the four samples 3-18, 3-19, 3-20, 3-21 all represent different service months for the same client. The supporting OIG working papers do not indicate an error for *attribute 6*, "Judges' original determination with required action and/or verbiage missing or not signed," yet the audit report matrix indicates there are three *attribute 6* errors (three out of the four service months). Errors such as this have a material impact due to the fact that they are projected to the entire population as questioned costs.

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Legal Criteria

Record Retention. By far, the majority of the questioned costs relate to county records that were destroyed after three years in accordance with State and Federal record retention policies. The OIG auditors received an opinion from OIG counsel stating that sample cases where records were destroyed could be considered unallowable. That position is incorrect due to a fatal flaw in the opinion request itself.

- First, the State's documentation that supported the IV-E reimbursement claim is still available and has not been destroyed. That documentation consisted of data in the State's Child Care Subsidy Reimbursement System, the Child Placement Information and Tracking System (CPITS) and the State's accounting system. The information in these databases contained client listings, eligibility criteria, and payments to the various subrecipient counties and nonprofits. From this information, the State's contractor developed the basis for the IV-E reimbursement claim. (For more detailed listing of the comprehensive data that is included in the Child Care Subsidy Reimbursement System, see the attached Day Care Reimbursement Layout Data Dictionary, which lists the various fields of data for each client. [Exhibit 1]).

Even after thousands of hours expended on this audit, the auditors apparently still have an inadequate understanding of the State day care system. For example, background material in the audit working papers state that:

"The costs of day care services for IV-E children were paid from various funding sources including CCDBG, At-Risk, SSBG and State funds. The State pooled the funding sources (CCDBG, At-Risk, SSBG and State funds) to pay for child care." (W/P G-3a)

This is not a true statement. The State does not pool funding sources or grant funds. The State does pool children (costs) based on eligibility criteria. As explained in other sections of this response, eligible costs are applied against grants as appropriate. (Exhibit

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2 is an example of a pool of eligible costs listing specific children.) Further, the auditors expressed no knowledge of these "special listings" of children at the exit conference despite documentation in the audit working papers to the contrary.

- Second, as the auditors have noted, the IV-E reimbursement claims were made by the State when it came to State officials' attention that IV-E funds could be used for day care for IV-E eligible children. The retroactive reimbursement request was to recoup a portion of excess State funds that had been provided in prior years for eligible IV-E day care services/costs.
- Third, the records the auditors refer to as "being destroyed" are actually records of the subrecipients (counties and non-profit local purchasing agencies {LPAs}). These counties and LPAs are independent entities which are subject to the federal Single Audit Act. They are not a component of State government. They routinely purge their files (after three years) in accordance with the Record Retention and Disposition Schedule and federal regulations.

The auditors appear to have assumed that the starting date for the three-year retention period applicable to counties and non-profit subrecipients was the date that the State submitted its claims for FFP. This is incorrect. Although 45 CFR 74.53 refers to record retention for three years from the date of the final expenditure report, it does not govern record retention by subrecipients. According to 45 CFR 74.5(b), subawards to government entities such as counties are governed by the record retention requirement of 45 CFR 92.42. Under 45 CFR 92.42(c), the starting date for record retention for a subgrantee is when the subgrantee submits to the awarding agency - - i.e., to the State (see the definition of "awarding agency" in 45 CFR 92.3) - - its last expenditure report for the period. Thus, the counties' record retention period (which ran from the date they reported expenditures to the State) was not affected by the State's 1998 submission of

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claims to the federal government. Also, according to 45 CFR 74.5, the requirements of Part 74 do not apply to subawards under block grants. Therefore, the record retention period that the auditors applied did not apply to the non-profit local purchasing agencies that purchased child care services with SSBG or CCDBG funds.

- Fourth, these agencies (counties and non-profits) did not file amended expenditure reports or receive any funds from the amended IV-E request. The claim/expenditure report was at the State level seeking reimbursement of State-funded expenditures. Therefore, the county and non-profit organizations record retention periods were not extended beyond the normal three-year retention requirement.
- Fifth, the OIG did not notify the subgrantees (counties and nonprofits) that they would be subject to an audit beginning in July 1998 retroactive to 1993. These subrecipients properly disposed of records in accordance with the Federal and State record retention schedules. The audit cited missing documentation at the county departments of social services, the subrecipient level, while the audit request was at the State grantee level. The basic documentation to support the claim request was at the State level and is still available for review. It has not been destroyed. Detailed information in the Child Care Subsidy Reimbursement System, the Child Placement Information and Tracking System and the State's accounting system (revenues and disbursements) is still available.
- Sixth, the State DHHS Controller's Office annually advises county subrecipients that they can destroy all fiscal records older than three years in accordance with the State Records Retention and Disposition Schedule. Any counties with pending audits are specifically enumerated and prohibited from following this authorization to destroy records. Departmental Appeals Board (DAB) decision 798 states:

"when records are destroyed pursuant to an overall records management plan, the State cannot be held to documentation requirements otherwise applicable. We have

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found that the general requirement to provide documentation to support a claim does not apply when a state can show that the relevant records had been maintained but were, in fact, destroyed, after a reasonable retention period not shorter than the period required by regulation, as part of a regular program of record destruction unrelated to the disallowance.”

The same DAB decision states that where relevant information is available from other sources, the State (in this case, the subrecipients) would not be harmed. This certainly is not the standard being applied by the OIG to this audit.

- Finally, in addition to the above comments regarding record retention, it should be noted that the record retention and access requirements in 45 CFR Subpart D §74.22 is grant specific. The filing of an amended expenditure report for the IV-E grant extended the documentation record retention requirements for that grant alone at the State level. It does not apply to multiple grants as suggested by the OIG. Thus, it was improper for the OIG to disallow funds/question costs for other day care grants older than three years.

Retroactive Application of 1997 ACF Policy Interpretation. Five instances were noted where the cite in the audit report was ACYF-CB-PIQ-97-01, which was an ACF policy interpretation issued March 3, 1997. The audit retroactively applied this 1997 interpretation to cases for the period beginning October 1, 1993. Not only is this not fair, but this practice is without legal support. A State cannot knowingly accept the terms of the grant if it is unaware of the conditions being imposed. Davis v. Monroe County Board of Education, 526 U.S. 629, 119 S.Ct. 1661 (1999). Conditions in Federal grant programs must be clearly expressed so a State understands the bargain it has made when it signs up for federal programs. Maryland Psychiatric Society v. Shalala, 102 F.3d 717 (4th Cir. 1996).

The requirement of fair notice is not unique to grants. Due process likewise requires that parties receive fair notice of a regulatory interpretation before being deprived of property where the regulation is not sufficiently clear to warn a party of what is expected. Trinity Broadcasting

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of Florida v. FCC, 211 F.3d 618 (D.C. Cir. 2000). The DAB has similarly held that “the State cannot be fairly held to the Agency’s interpretation if the State did not receive adequate, timely notice of that interpretation in the context where there was another reasonable interpretation relied on by the State.” Illinois Department of Children and Family Services, DAB No. 1335 (1992).

Compliance with grant requirements is determined on the basis of the law in effect at the time the grant was made. Bennett v. New Jersey, 470 U.S. 632, 105 S. Ct. 1555 (1985). States do not guarantee that their performance will satisfy whatever interpretation might later be adopted by the Agency. Bennett v. Kentucky Department of Education, 470 U.S. 656, 105 S.Ct. 1544, 1552 (1985). Accordingly, when determining if the State had adequate notice of the Agency’s interpretation, the timing of that notice is crucial.

The procedure through which the Agency is required to give adequate notice of its interpretations to the States (and the public) is specified by statute in the Freedom of Information Act (“FOIA”), 5 U.S.C. §552. All policies and interpretations adopted by the Agency must be publicized in one of two ways: by publication of the document in the Federal Register, 5 U.S.C. §552(a)(1), or by identification of the document in a published FOIA index. 5 U.S.C. §552(a)(2). See generally, Anderson v. Butz, 550 F.2d 459, 462-63 (9th Cir. 1977).

The indexing requirement is particularly important. The legislative history of FOIA reveals that Congress added the indexing requirement to bring “order out of the confusion of agency orders, opinions, policy statements, interpretations, manuals, and instructions by requiring each agency to maintain for public inspection an index of all the documents having precedential significance which would be made available or published under the law.” H. Rep. No. 1497, reprinted in 1966 U.S. Code, Congressional and Administrative News, p. 2425. Congress wanted to prevent “a citizen from losing a controversy with an agency because of some obscure or hidden order or opinion which the agency knows about but which has been unavailable to the citizen simply because he has no way to discover it.” Id. In the absence of their inclusion in a FOIA index which is properly published and distributed, interpretations may

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not be used by an agency against a party unless the party has "actual and timely notice of the terms thereof." 5 U.S.C. §§552(a)(1), (2)(ii).

Thus, to apply a 1997 ACF interpretation to events/activities occurring three years prior is both unreasonable and without legal authority.

State Child Day Care Services (Manual). The audit cites the State's Child Day Care Services Manual in several findings. We disagree with a number of the auditors' findings and associated questioned costs that the State failed to comply with procedures described in this State Manual. More important, however, we point out that it is improper for federal auditors to base audit findings on whether or not a State has complied with State policies and procedures that are not required by federal law. The procedures and policies described in North Carolina's Child Day Care Services Manual on which the OIG auditors relied were not required by federal law. Rather, they were discretionary procedures and policies that the State had the authority to waive. Non-compliance with these State procedures and policies cannot support a finding that the State's claims for FFP were overstated. See, e.g., Ohio Department of Health and Human Services, DAB Decision No. 725A (1986) (reversing disallowance based on State's failure to follow its own policy because the State had the authority to waive its administrative requirements).

Missing Documentation

The North Carolina Division of Social Services is organized on a State-administered, county-operated system of welfare administration that has worked extremely well over the years. Counties make payments, maintain documentation and submit reimbursement requests and statistical data to the State. The State maintains the statistical databases and provides funding to the subrecipients (counties and LPAs). The State Record Retention and Disposition Schedule and federal policy allows counties to purge records over three years old. When the audit began, the State (and counties) had no idea that the OIG auditors were going to be requesting county records back to 1993. The pressing need to purge records is evident in the tens of thousands of case records, payments, etc. One case file may be 10-12 inches thick. Thus, the destruction of

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old records is a normal process that efficiency in government dictates from a maintenance and space consideration. The auditors have taken the position that all of these old records that were purged constitute a 100% error, which translates into a \$ 40 million dollar plus payback. This approach is unconscionable.

As the auditors are aware from their continuing day-care audit activities for periods subsequent to the time period covered in this audit, the county agencies as a matter of policy do maintain extensive files and records reflecting eligibility as required by record retention requirements. Furthermore, the counties are subject to quality control reviews to ensure a high level of accountability and compliance with program regulations. There is no basis for an audit determination that missing records outside of the three-year retention requirement constitute unallowable costs or ineligibility. On the contrary, data from the destroyed records was entered into the State's Child Care Subsidy System which documents in electronic format various items, such as eligible claims, service codes, service provider, and funding source.

Missing Attendance Records

In addition to the prior comments regarding missing information, the auditors did not review alternative documentation/evidentiary matter in instances where old attendance records had been destroyed/purged after three years in accordance with state and federal policies. Also ignored was the fact that day care fees are paid on an enrollment basis instead of attendance. Generally accepted government auditing standards include an evaluation of internal control as part of the auditing process. The OIG could have reviewed the internal controls of the various County Finance Offices and Departments of Social Services and determined that all payables including day care bills are preaudited by the Finance Officer and paid based upon proper approvals and enrollment. Rather, the audit became a "mail order" process orchestrated from Raleigh rather than actual site visits with internal control evaluations, interviews with appropriate persons, and other activity as set forth in *Government Auditing Standards*. While this was an audit convenience, it translated into a \$ 48 million payback for the State.

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The OIG audit report states that the audit was conducted in accordance with generally accepted government auditing standards. *Government Auditing Standards* state that as one of the fieldwork standards, auditors must consider evidence which can be categorized as physical, documentary, testimonial and analytical. Even testimonial evidence can be utilized which is obtained through inquiries, interviews, or questionnaires.

The major finding in the report was that of missing/destroyed attendance records. We agree that attendance records were generally destroyed after three years in accordance with normal record retention guidelines as stated in the OIG audit. Thus, this should not be a finding. However, despite the fact that records were appropriately destroyed after three years, alternative audit procedures could have been employed that would also have negated this as a finding. For example:

- It is official day care policy that day care providers are paid based on enrollment-- not attendance. The State's Child Day Care Services Manual, Part II, Chapter C, Section 2, page 14 states:

"Payment for child day care services is based on the child's enrollment according to the plan of care developed by the service worker and the parent."

- Attendance records are kept at the local level (counties and LPA) and provide only part of the basis for payments to the various child care providers. Under the Single Audit, these attendance records were subject to compliance pre-audit standards as promulgated in the State's Local Government Budget and Fiscal Control Act, North Carolina General Statutes, Chapter 159. Under the requirements of the Local Government and Fiscal Control Act, contracts with independent CPAs, internal controls and audit programs as well as audit reports are monitored and administered by the Local Government Commission, which has such high accountability standards that North Carolina is one of only nine states that has a triple A bond rating. N.C.G.S. § 159-28 requires, in part, that the county finance officer pre-audit all disbursements, including day care invoices. Thus, the OIG could have easily relied on the strong internal controls at the county level, the

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highly respected State Local Government Commission oversight and the fact that all of the various counties had been subjected to an *OMB Circular A-133* Single Audit conducted in accordance with generally accepted government auditing standards versus the OIG posture that old missing documentation constituted unallowable costs.

Thus, (1) although local county records were generally destroyed after three years in accordance with record retention requirements, alternative documentation could and should have been reviewed to satisfy the auditor. (2) Enrollment documentation is a better criteria than the attendance record since day care is paid on an enrollment basis instead of attendance. (3) Lastly, the approvals for payment to the day care provider are documented on the computer files for the Child Care Subsidy Reimbursement System. These factors, either individually or collectively, should have been sufficient to negate the use of missing attendance records as a finding.

Biases

Federal Revenue Maximization. North Carolina and other States have in recent years become targets for OIG audits due to attempts to "maximize Federal revenue," especially when it is thought that the States have employed "consultants" to assist in identification of areas/costs that qualify for Federal funding. These audits typically contain exorbitant paybacks designed to break the backs of States for attempting to maximize Federal revenue.

The subtitle of one section of North Carolina's OIG audit report is "**Federal Revenue Maximization.**" The auditor's stated opinion was that the audit "problems were a result of an effort by the State and its consultant to maximize Federal revenue" and that "these claims were prepared by the State's consultant under a revenue maximization contract." Thus, having a revenue maximization consultant was considered to be a negative factor in this audit as well as other audits.

In another NCDHHS audit (A-04-97-00109), Revenue Maximization was similarly disparaged. The OIG and ACF attempted to question and assess North Carolina punitively over \$15 million by utilizing the point estimate (\$ 26 million) of the statistical sample versus the

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standard OIG stated policy of utilizing the lower limit of the 90% confidence level (\$ 11 million). The Departmental Appeals Board (DAB) reversed a similar attempt by OIG and HCFA against the California Department of Health Services. (DAB No. 1240).

While the OIG's various offices produce some excellent reports, we feel that the current report has crossed the line from "recommendation" status to "enforcement" status. The audit report implies that there is something inherently wrong with maximizing Federal funding and utilizing consultants. There was no citation offered in the audit report(s) to support the negative implication of maximizing Federal revenues, and we know of no regulation or law that precludes this procedure. An earlier OIG audit report was critical of ACF's position for allowing revenue maximization: "We found that ACF approved State plan amendments which enabled States to maximize Federal revenue by obtaining EA funding for services traditionally State funded." (OIG Audit A-01-95-02503).

That the OIG has been zealous in attacking the area of revenue maximization can be derived from a review of their various audits and work plans. The 1998 Work Plan states:

"This review will examine whether States, with the help of consultants, are shifting costs to non-Temporary Assistance for Needy Families (TANF) programs. Consultants continue to be instrumental in efforts to maximize Federal financial participation. States may be motivated to shift some of these costs to other open-ended programs...."

We strongly disagree with the approach taken by the OIG. State officials and managers would be remiss in carrying out their responsibilities if they did not seek, on behalf of the State, to maximize the Federal funding Congress appropriated for the welfare of the citizens of North Carolina. Thus, the audit report unfairly criticizes State administrators for performing their public responsibilities and thwarts the intent of Congress to provide Federal funding to assist State agencies in promoting the welfare of this country's citizens.

Beyond the revenue maximization issue, ACF's negativity toward North Carolina is clearly expressed in an internal e-mail dated June 3, 1998 from Gene Roth, ACF Regional Grants Officer for State Programs, regarding the State's \$3,071,181 IV-E claim:

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"I would suppose that since Joe has asked you to immediately adjust NC's QE 3/98 for actual expenditures, you would add the \$3.0 million rpted on the state's 3/5/98 to the other CQ and PQ expenditures reported on the state's 'regular QE 3/98 IV-E 12 submittal dated 4/29/98. In this way, we could satisfy 'crybaby' NC's cash flow problem for QE 3/98 actual vs estimate (GA) plus give it the funds for the retro child care claims for \$3.0 million which we are questioning." [bold emphasis supplied]

It should be noted that this is also the same official who requested the current IV-E audit and supplied guidance to the OIG auditors.

Equity. There has been essentially no equity in the audit process.

- The auditors assumed that all high dollar IV-E claims were therapeutic in nature and could not be allowed based on a 1997 ACF policy interpretation that they applied retroactively. Although the report states that "These [therapeutic] services would be covered under the Social Services Block Grant," there is no allowance of these expenditures under the Social Services Block Grant to offset proposed disallowances. The audit only disallows costs, a one-way approach that is not equitable to the State. An audit should fairly and independently represent the situation—not represent a bias toward recoupment of Federal funds. The audit process should be a two-edged rather than a one-edged sword and provide credit when applicable. Audits should not be biased toward recoupment of federal funds.
- There are other situations where claims were questioned for one grant but the attribute being questioned was perfectly allowable for one or more other day care grants being audited. As stated earlier, each of the eligibility pools had excess eligible costs. It would have been simple to recognize this as a point of equity and allowed substitution of costs.

Error Attributes in Addition to Missing/Destroyed Records

Child not placed in a licensed foster home for month of service so not reimbursable. The audit report alleges 10 instances of this error (*attribute 9*) for the IV-E grant. We are at a loss as to why this was a finding. A Division of Social Services clerk queried the same system that the

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auditor had accessed and found 9 of the 10 foster homes. All nine foster homes possessed valid licenses for the period under audit. The 10th case had an incorrect identification number/name and we did not have sufficient time to resolve this last instance. Thus, nine homes are documented as licensed and a tenth is uncertain at this point in time. (Documentation attached-Exhibit 3).

Incomplete, Unapproved or Missing Applications (IV-E). While the draft audit report did not distinguish between these three application categories (incomplete, unapproved or missing), most (71) of the applications in question were in the category "missing" which is addressed in other sections of this response. However, it should be noted that under a Freedom of Information Act (FOIA) request to the HHS FOIA Office, the Children's Bureau provided the following information:

"(a) Documents relative to who may sign an application for Federal benefits for children in foster care:

No documents, policy issuances or regulations exist under the Title IV-E program regarding who may (or may not) sign an application for Federal benefits for children in foster care, because no "application" is required. The purpose of the Title IV-E foster care program is to provide Federal funds to States for the care of AFDC eligible children who must be placed in foster care. Federal financial participation in State expenditures for foster care maintenance payments is available at the Federal Medical Assistance Percentage (FMAP), which varies among States from 50% to 78%.

A child usually enters foster care after being abused or neglected at home. In order to be eligible for Title IV-E foster care, a child's removal from home must be pursuant to a court order that contains a judicial determination that it was contrary to the child's welfare to remain at home, or a voluntary placement agreement. The voluntary placement agreement must be signed by the parent or legal guardian and the State Title IV-E agency representative. Most often a State eligibility worker determines if the child

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meets the eligibility requirements at section 472(a) of the Social Security Act, including the AFDC eligibility requirement.

After determining that a child meets all eligibility criteria, including placement with a licensed foster care provider, the State files a quarterly claim on the child's behalf for Federal reimbursement at the FMAP. No application, as such, is required to place a child in foster care." Letter to Jason W. Mannes, Esq., dated December 22, 1999, signed by Any Reynolds Hay, Assistant U.S. Attorney. (Emphasis added.)

Thus, according to the HHS FOIA Office and the Children's Bureau, no application is required for IV-E.

In addition to the 71 IV-E "missing/destroyed cases," 2 applications were identified as errors because they were "not approved." The fact that the two children received an approved Voucher/Action Notices for the provision of day care services is alternative evidence that the two applications were approved.

We would be remiss not to point out that our review of the OIG work papers concerning missing applications revealed that in 17 out of the 71 cases noted, either a copy of the application was in the OIG work papers or the OIG review sheet indicated that an application had been reviewed.

Example 1. Report Appendix D – IV-E Child Care Claims – Summary of Sample Review) reflects that an application was missing on 4 out of 5 months for the same child. There was a copy of an approved application in the OIG file that covered all 5 months. (Samples 3-1, 3-2, 3-3, 3-4, 3-5 for IV-E).

Example 2. Appendix D indicates that an application is missing on sample 3-6. However, the auditor's review sheet indicates an approved application was reviewed. No

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errors were noted on the next four months (samples 3-7, 3-8, 3-9, 3-10), which were all for the same child.

Example 3. Appendix D indicates that an application is missing on samples 3-13 and 3-14. However, the auditor's review sheet indicates an approved application was reviewed on samples 3-12 through 3-14 which were all for the same child.

Example 4. Appendix D indicates that an application is missing on samples 3-15, 3-16 and 3-17. However, the auditor's review sheet indicates an approved application was reviewed on all three samples which were all for the same child.

Example 5. On Appendix D, samples 1-15, 1-13, 2-38, 2-24, 2-23 and 2-62 were indicated as errors. These cases/claims were from Mecklenburg County which had permission to use their own alternative forms. Collectively, these alternative forms had the necessary information for authorizing day care services. We disagree with the auditor that these claims should be errors. This appears to be a case where form is preferred above substance.

Example 6. Appendix D samples 2-65 and 2-66 indicated errors for "applications that were not approved." A review of the application form revealed that the social worker who prepared the application signed as the authorized representative of the children but did not sign the form a second time as an approver. It is logical to assume that if social workers initiated the form on behalf of the child, they also approved the services and needed to sign the same form only once. It should also be noted that there were similar instances in which the auditor did not question this practice.

Therapeutic Day Care. The auditor selected, as one of three sample strata for the IV-E grant, all service months/claims over \$1000. There was a total of 21 claims, all of which were selected

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for review. The auditor labeled these "therapeutic" claims. (The first time that we could find this term in any regulation/policy is in the 1997 ACF policy interpretation previously addressed in the response.) The entire sample of 21 alleged "therapeutic" costs (actually only 6 children with multiple service dates) was questioned based on their high costs and the March 1997 ACF policy interpretation applied by the auditor retroactively to 1994. Several points need to be made in regard to this finding.

(a) **IV-E provides for the cost of "daily supervision."** At a minimum, the portion of the payment relating to "daily supervision" is allowable for all these children. The applicable policy issued April 30, 1982, ACYF-PA-82-01 interpretation, states that only social services (citing counseling, therapy, psychological or educational testing) are unallowable. No partial credit (equity) was given for at least the "daily supervision" component. The total costs were questioned.

(b) **Specialized day care.** The payments for these 6 children (21 service month claims) were questioned by the auditors based on their high costs. An auditor can not arbitrarily assume that high costs equates to therapeutic child care and disallow the costs. Certain handicapped children are going to require higher degrees of supervision which translates into higher day care supervision costs/rates. These should be treated as allowable costs as referenced in ACYF-PA-82-01. For example:

Child # 6 is one of the six children cited as unallowable. This young boy attended a day care facility with other children as necessitated by his working foster parent.

However, based on his handicap, another teacher was required in the room. A review of the case by the State Division of Social Services deemed this child appropriately placed under the IV-E grant. This child represented 3 of the 21 service month claims questioned in the audit report.

Child # 1 is a young girl who has special needs. Day care is again necessary in order for her foster parent to maintain a job. This case has also been reviewed by the Division of Social Services and deemed eligible for the IV-E grant. This child represented 5 of the 21 service month claims questioned in the audit report.

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Child # 3. Auditor's note states that "developmental needs are the primary reason for this day care." In addition, the auditor noted that the reason needed for day care reflected on the approved application (effective July 25, 1996) was "employment." We do not agree with auditor's arbitrary decision to disallow this claim based on the assumption that developmental needs was the primary reason for day care. A copy of the social worker's Narrative Documentation Record in the case file indicated on July 25, 1996 that "Foster care for [child xxxx xxxx] continues. Day care is needed to support foster parent working full time."

Children # 2, 4 and 5. These children were similarly in developmental day programs due to the employment of their foster parents. In order for the foster parents to work, there must be a day care arrangement for the children. This is the day care plan that can best meet the children's supervisory needs while the foster parents work. We disagree with the auditor's arbitrary position of disallowing these claims.

(c) **The cite in the audit report was ACYF-CB-PIQ-97-01, an ACF policy interpretation issued March 3, 1997. The audit retroactively applies this 1997 interpretation to cases for the period beginning October 1, 1993.** Not only is this not fair, but this practice is without legal support. (See the response section entitled, Retroactive Application of 1997 ACF Policy Interpretation for more details).

(d) **Lack of equity.** The State considers the above cases to be eligible for IV-E funding. However, for purposes of discussion, the draft audit report states, "These services would be covered under the Social Services Block Grant." (page 7) Yet, nowhere in the report does the auditor make an allowance for the allowability of these expenditures under another grant (SSBG). This is clearly another example of a one-edged sword.

Payment Codes Other Than For Foster Parent(s)' Employment. Five IV-E claims were cited having payment codes that were not for the foster parent's employment. Four of these claims (samples 1-85, 2-12, 2-28 and 2-58) did have employment payment codes (code 811)

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assigned to them. The fifth case (sample 1-24) had a code of 831 (training) and would be inappropriate for IV-E but would be eligible for other day care grants that allow day care for parents receiving training/education.

Foster Care Maintenance Payments Not Paid by IV-E. Four claims were listed under this finding. Of the four, we have documentation that the maintenance payment for two of the claims (samples 1-14 and 2-68) were paid for by IV-E. We are still researching the other two.

Ineligible for AFDC or Eligibility Requirement Not Documented. The audit lists fourteen claims for this category. A number of these deal with missing information which is dealt with in other sections of this response. However, the Eligibility Information System (EIS) documented that five of the claims received AFDC payments. (Samples 1-25, 1-42, 1-52, 1-67 and 2-68). We are continuing to research whether the other children were eligible to receive AFDC. The AFDC information will be matched with appropriate custody information to determine eligibility for IV-E.

Voucher/Action Notices. Several instances were noted out of 401 cases where a voucher was either not "approved" or "missing services to be provided." There will inevitably be instances in which a worker inadvertently fails to sign a document or check a box; however, when the worker processes all the other necessary paperwork and the client receives services, this should collectively be considered alternative evidence of approval. The singling out of a specific blank on a package of materials is inappropriate to designate as a critical error. All errors are not critical errors even though this audit treated them as such. However, it should be noted that Sample 98 for SSBG had an approved voucher in the auditor's working papers. Another file (sample 1-10 for IV-E) had been purged because it was over three years old. Both of these cases should not have been treated as errors.

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No License or Registration for Child Care Facility. The audit alleged five instances in which there were claims from unlicensed or unregistered child care facilities. More specifically, the draft audit finding states "that claims were from child care facilities that had no State approved license or registration as required by IV-E." The cite the auditors applied retroactively ACF interpretation, ACYF-CB-PIQ-97-01, which states:

"Child care services for children in foster care must be rendered by a provider that is licensed, certified, or has some other formal status under State or local regulations in order for the State to claim reimbursement under title IV-E."

However, the criteria actually applied by the auditor was even more restrictive than the above ACF policy interpretation. In addition to licensed homes, day care regulations, (Child Day Care Services Manual, Chapter 18), provide for an approval process for what is termed a "nonregistered home." The term "nonregistered home" is somewhat a misnomer. In affect, a nonregistered home is approved not at the State level, but at the county level subject to State rules and oversight. In order for a nonregistered home to be recognized in the day care system, it must be approved for participation in the subsidized child day care program and meet certain standards.

"A nonregistered home is a day care arrangement which is exempt from registration due to the number of children being cared for and/or the number of hours care is provided. Nonregistered homes must be operating legally in order to be approved to participate in the subsidized child day care program." (Child Day Care Services Manual, Chapter 18 Issued March 1996)

Essentially the same policies existed in the Child Day Care Services Manual, Part II, Chapter D, Section 2 (revised 8/94). The Child Day Care Services Manual further provides for the extensive steps that counties must take to approve a nonregistered home including the: (1) application, (2) number of children, (3) hours of care, (4) relationship of the children to the provider, (5) compliance with health and safety requirements, (6) completion of a nonregistered homes checklist and (7) completion of other forms. This information must be verified and go through an approval process delegated by the State to the county. Approvals, denials and terminations are delegated to the county but the provider may appeal adverse rulings to the N.C. Department of Human Resources (now Health and Human Services).

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In addition to the provider classifications of licensed or certified, the ACF interpretation clearly provides for an additional classification of providers that have "some other formal status under State or local regulations." There are significant standards/criteria that these small day care providers must meet in addition to the application process, denial, termination and monitoring procedures. Thus, nonregistered homes are a third classification with "formal status under State or local regulations" which complies with the ACF policy interpretation.

Two of the five instances of alleged "No License or Registration for Child Care Facility" were indeed licensed facilities during the time frame audited. (Exhibit 4) The remaining three child care facilities met the requirements enumerated above and were county-approved "nonregistered homes." Thus, this should not be a finding.

Judge's original determination with required action and/or verbiage missing or not signed (Attribute #6 for IV-E). Of the 14 instances for this error, 11 were related to missing orders and the remaining 3 orders allegedly did not have required verbiage. (Appendix D matrix reflects that the judge's order is missing on 3 out of the 4 months for the same child.) The respective review sheets in the OIG working papers do not reflect any errors associated with the judge's order for all four claim/months for this child. (Samples 3-18, 3-19, 3-20 and 3-21 for IV-E). In addition, we have been able to secure two orders (samples 1-51 and 2-28) that were missing during the time of the audit but have been subsequently received.

Maximum Gross Income Not considered (SSBG). This finding indicated "twelve line items showed no indication that maximum gross income had been considered in the process of determining eligibility, where required, based on type of need." Based on our review of the income criteria/category codes reflected in the Child Care Reimbursement System, at least eight of the twelve cases had no income requirements or as stated by the code, "without regard to income."

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Documentation of reason for 13 year old receiving day care services. One case was cited for this error attribute. We contacted the local county department of social services concerning this disallowance. The child in question was mildly retarded and the social worker documented that the child could not be left alone at home for safety reasons while the parent worked. Thus, this should not be identified as a finding or questioned costs.

Other Unallowable IV-E Claims. For this finding, the auditor relied completely on a computer tape to identify "unallowable IV-E claims totaling \$1,271,948 that were in addition to the unallowable claims identified through our statistical sample." This finding resulted from the State's contractor not deleting certain non-job related service codes from the IV-E reimbursement claim. There are several inherent problems associated with this finding:

- First, the auditors' use of a computer database to assess questioned costs is diametrically opposed to their position of not accepting data in the State's computer database to support State expenditures for the IV-E claim. The auditors refused to accept computerized data documentation and eligibility data at the State level that would have minimized questioned costs since most of the audit's questioned costs resulted from purged records at the subrecipient/county level. For this finding, the auditors considered the computer tapes as the sole basis and sufficient for questioning costs but insufficient for the State to utilize as a basis for retroactive claims. This is another example of inequity reflected in the audit.
- Second, in yet another example of inequity, the auditors failed to point out that \$1,173,833 of the \$1,271,948 was allowable under the SSBG grant.

Comment

Due to the limited amount of response time and the magnitude of questionable practices by the OIG auditors, this audit response should not to be considered an exhaustive listing of our analysis of questioned costs and/or comments on the merits of the audit.

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Conclusion

The State was not treated fairly in this audit. The punitive positions taken in the OIG audit speak for themselves. We are not so naïve as to think that the State or local government agencies never make errors. Errors are routinely made at all levels of government, local, State and Federal; even auditors make errors. In this case, the auditors have utilized what in reality is a small number of errors to create exorbitant federal paybacks. This type of auditing approach is seriously deficient and detracts from real efficiencies in the State and Federal governments. Hundreds of thousands of dollars have already been expended by the OIG, State and County government. Additional thousands of dollars will likely be expended in protracted litigation of these issues. This is not a productive use of taxpayer funds.

While we are in favor of accountability, we feel that the present direction of creating exorbitant paybacks by the OIG and Federal grantor office is wrong. We should never measure the effectiveness of an audit by the amount of funding that is questioned and recovered, no more than we should measure the effectiveness of a policeman by the number of citations written. We would hope that the incongruous stances taken by the Federal offices in recent years would change back to a policy of working together to improve operations and efficiency.

We strongly feel that due to the failure to adhere to *Government Auditing Standards* and the biases in the audit report, the report should not even be issued. It reflects:

- Regulation misinterpretations,
- retroactive application of policies,
- short-comings in adherence to *Government Auditing Standards*,
- biases,
- inequitable treatment of findings, and
- fieldwork errors.

These points all support the conclusion that the audit process was critically flawed and the audit report should not be issued. Instead of evaluating the internal controls, reviewing alternative documentation, interviewing independent CPAs, reviewing local CPA's work papers and other

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evidentiary matter, the audit relied on a long-distance mail order approach of requesting specific forms for the client files selected throughout the State.

We regret that the audit environment between the State and Federal government has deteriorated to the current point. The State has been placed in a contentious position in recent years due to almost continual Federal audits and exorbitant paybacks such as the current \$ 48.2 million on a \$ 6.2 million claim—almost eight times more than the IV-E reimbursement request! This situation is even more untenable since the State during this time period contributed over \$20 million in State funds above and beyond the federal funding and the associated State match. It is evident that these audit paybacks are punitive in nature, largely due to the State's efforts to maximize Federal funding and to attempts by ACF and the OIG to discourage any such effort. However, we hope that we can move out of the current environment to a more productive use of taxpayer's funding. The welfare of millions of our citizens depends upon how well we perform our responsibilities, and how well the State and Federal government interact in the funding and provision of needed services. I can assure you that the North Carolina Department of Health and Human Services is committed to working with all the Federal agencies to achieve the best services available for the people of North Carolina.

Sincerely,



H. David Bruton, M.D.

OIG NOTE

**DUE TO PRIVACY CONCERNS, PAGES 34-67 OF
THE COMMENTS HAVE NOT BEEN INCLUDED.
THESE PAGES CONTAINED EXHIBITS WITH
PERSONAL IDENTIFIERS.**