



August 12, 2011

TO: George Sheldon
Acting Assistant Secretary
Administration for Children and Families

FROM: /Lori S. Pilcher/
Acting Deputy Inspector General for Audit Services

SUBJECT: Review of Massachusetts Title IV-E Adoption Assistance Costs for Federal Fiscal Years 2006 Through 2008 (A-01-11-02500)

Attached, for your information, is an advance copy of our final report on Massachusetts Title IV-E adoption assistance costs. We will issue this report to the Department of Children & Families within 5 business days. This report is part of a nationwide review of Title IV-E adoption assistance costs.

If you have any questions or comments about this report, please do not hesitate to contact me at (202) 619-1175 or through email at Lori.Pilcher@oig.hhs.gov, or your staff may contact Michael J. Armstrong, Regional Inspector General for Audit Services, Region I, at (617) 565-2689 or through email at Michael.Armstrong@oig.hhs.gov. Please refer to report number A-01-11-02500.

Attachment



Office of Audit Services, Region I
John F. Kennedy Federal Building
Room 2425
Boston, MA 02203

August 16, 2011

Report Number: A-01-11-02500

Mr. Angelo McClain
Commissioner
Department of Children and Families
24 Farnsworth Street
Boston, MA 02210

Dear Mr. McClain:

Enclosed is the U.S. Department of Health and Human Services (HHS), Office of Inspector General (OIG), final report entitled *Review of Massachusetts Title IV-E Adoption Assistance Costs for Federal Fiscal Years 2006 Through 2008*. We will forward a copy of this report to the HHS action official noted on the following page for review and any action deemed necessary.

The HHS action official will make final determination as to actions taken on all matters reported. We request that you respond to this 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.

Section 8L of the Inspector General Act, 5 U.S.C. App., requires that OIG post its publicly available reports on the OIG Web site. Accordingly, this report will be posted at <http://oig.hhs.gov>.

If you have any questions or comments about this report, please do not hesitate to call me, or contact George Nedder, Audit Manager, at (617) 565-3463 or through email at George.Nedder@oig.hhs.gov. Please refer to report number A-01-11-02500 in all correspondence.

Sincerely,

/Michael J. Armstrong/
Regional Inspector General
for Audit Services

Enclosure

Direct Reply to HHS Action Official:

Richard Borseti
Grants Management Officer
Office of Grants Management
Regional Administrator, Region I
Administration for Children and Families
U.S. Department of Health and Human Services
JFK Federal Building
Room 2000
Boston, MA 02203

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**REVIEW OF MASSACHUSETTS
TITLE IV-E ADOPTION
ASSISTANCE COSTS FOR
FEDERAL FISCAL YEARS
2006 THROUGH 2008**



Daniel R. Levinson
Inspector General

August 2011
A-01-11-02500

Office of Inspector General

<http://oig.hhs.gov>

The mission of the Office of Inspector General (OIG), as mandated by Public Law 95-452, as amended, is to protect the integrity of the Department of Health & Human Services (HHS) programs, as well as the health and welfare of beneficiaries served by those programs. This statutory mission is carried out through a nationwide network of audits, investigations, and inspections conducted by the following operating components:

Office of Audit Services

The Office of Audit Services (OAS) provides auditing services for HHS, either by conducting audits with its own audit resources or by overseeing audit work done by others. Audits examine the performance of HHS programs and/or its grantees and contractors in carrying out their respective responsibilities and are intended to provide independent assessments of HHS programs and operations. These assessments help reduce waste, abuse, and mismanagement and promote economy and efficiency throughout HHS.

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The Office of Evaluation and Inspections (OEI) conducts national evaluations to provide HHS, Congress, and the public with timely, useful, and reliable information on significant issues. These evaluations focus on preventing fraud, waste, or abuse and promoting economy, efficiency, and effectiveness of departmental programs. To promote impact, OEI reports also present practical recommendations for improving program operations.

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The Office of Investigations (OI) conducts criminal, civil, and administrative investigations of fraud and misconduct related to HHS programs, operations, and beneficiaries. With investigators working in all 50 States and the District of Columbia, OI utilizes its resources by actively coordinating with the Department of Justice and other Federal, State, and local law enforcement authorities. The investigative efforts of OI often lead to criminal convictions, administrative sanctions, and/or civil monetary penalties.

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The Office of Counsel to the Inspector General (OCIG) provides general legal services to OIG, rendering advice and opinions on HHS programs and operations and providing all legal support for OIG's internal operations. OCIG represents OIG in all civil and administrative fraud and abuse cases involving HHS programs, including False Claims Act, program exclusion, and civil monetary penalty cases. In connection with these cases, OCIG also negotiates and monitors corporate integrity agreements. OCIG renders advisory opinions, issues compliance program guidance, publishes fraud alerts, and provides other guidance to the health care industry concerning the anti-kickback statute and other OIG enforcement authorities.

Notices

THIS REPORT IS AVAILABLE TO THE PUBLIC
at <http://oig.hhs.gov>

Section 8L of the Inspector General Act, 5 U.S.C. App., requires that OIG post its publicly available reports on the OIG Web site.

OFFICE OF AUDIT SERVICES FINDINGS AND OPINIONS

The designation of financial or management practices as questionable, a recommendation for the disallowance of costs incurred or claimed, and any other conclusions and recommendations in this report represent the findings and opinions of OAS. Authorized officials of the HHS operating divisions will make final determination on these matters.

EXECUTIVE SUMMARY

BACKGROUND

Pursuant to Title IV-E of the Social Security Act, the Department of Health and Human Services, Administration for Children and Families (ACF), administers the adoption assistance program through its Administration on Children, Youth and Families. The adoption assistance program provides Federal funds to States to facilitate the timely placement of children whose special needs or circumstances would otherwise make them difficult to place with adoptive families. Monthly adoption subsidies assist adoptive families with the care of eligible children who were either involuntarily or voluntarily removed from their homes.

In Massachusetts, the Department of Children and Families (State agency) administers the Title IV-E adoption assistance program. During Federal fiscal years (FY) 2006 through 2008, the State agency claimed \$153,841,972 (\$76,920,980 Federal share) in Title IV-E adoption assistance payments on its quarterly expenditure reports.

OBJECTIVE

Our objective was to determine whether the State agency complied with certain Federal requirements in claiming selected adoption assistance payments for Federal reimbursement.

SUMMARY OF FINDINGS

In FYs 2006 through 2008, the State agency complied with the Federal requirements that we reviewed in claiming adoption assistance payments for 1,242 of the 1,500 children selected for review. However, the State agency claimed \$8,485,080 (\$4,242,540 Federal share) in unallowable adoption assistance payments for 258 children whose eligibility the State agency could not support with adequate documentation. Specifically, the State agency could not provide evidence that:

- 133 children met income eligibility requirements at the time of removal from their homes (\$2,287,328 Federal share) and
- 125 children met judicial determination requirements that continuation in their homes would be contrary to their welfare (\$1,955,212 Federal share).

The State agency claimed unallowable payments because it did not have adequate controls in place to ensure that it maintained proper documentation. The State agency informed us that it has put in place controls to ensure that it maintains the proper financial and judicial determination documentation.

RECOMMENDATIONS

We recommend that the State agency:

- make a financial adjustment of \$4,242,540 (Federal share) on its next quarterly expenditure report for the unallowable payments that we identified or provide ACF with additional documentation to support the allowability of those claims,
- discontinue claiming adoption assistance payments for children whose eligibility the State agency could not support, and
- review documentation for adoption assistance claims after FY 2008 and make a financial adjustment for any unallowable payments.

STATE AGENCY COMMENTS

In written comments on our draft report, the State agency concurred with our first recommendation and stated that it would make a financial adjustment of \$773,523 on its next quarterly expenditure report for the unallowable payments associated with 44 of the 258 children whose eligibility the State agency could not support with adequate documentation. For the remaining unallowable payments of \$3,469,017 associated with 214 of the 258 children, the State agency stated that it would provide additional documentation for ACF's consideration. The State agency also stated that it had instituted improvements to its internal quality control processes. The State agency did not specifically address our second and third recommendations.

The State agency's comments are included in their entirety as the Appendix.

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INTRODUCTION

BACKGROUND

Title IV-E Adoption Assistance Program

Pursuant to Title IV-E of the Social Security Act (the Act), the Department of Health and Human Services, Administration for Children and Families (ACF), administers the adoption assistance program through its Administration on Children, Youth and Families. The adoption assistance program provides Federal funds to States to facilitate the timely placement of children whose special needs or circumstances would otherwise make them difficult to place with adoptive families. Monthly adoption subsidies assist adoptive families with the care of eligible children who were either involuntarily or voluntarily removed from their homes. Sections 473(a) and (c) of the Act establish adoption assistance eligibility requirements, and ACF's *Child Welfare Policy Manual* provides guidance on these requirements. In addition, Federal regulations (45 CFR § 92.42) specify the requirements for record retention of documentation, including supporting documentation of eligibility assistance determinations.

A child may be eligible for Title IV-E adoption assistance if he or she is determined by the State to meet the statutory definition of a child with special needs¹ and:

- meets Aid to Families With Dependent Children (AFDC) requirements (as in effect on July 16, 1996) at the time of removal from the home,^{2,3}
- meets the requirements for Supplemental Security Income,
- is the child of a minor parent in foster care, or
- was previously eligible for Title IV-E adoption assistance.⁴

For an adoption assistance payment to be eligible for Federal reimbursement, a State must document the child's eligibility under one of these four categories.

¹ Section 473(c) of the Act lays out the requirements for a State finding of special needs.

² ACF's *Child Welfare Policy Manual*, § 8.4A, question 18, states: "Prior to the passage of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, each State set its own AFDC need standard to use in determining eligibility for the program. The term 'AFDC need standard' refers to the amount of money a State determined that a particular size family needed to subsist. For Title IV-E purposes, the State's need standard as of July 16, 1996 ... is the amount that provides the basis for both steps in the initial income test portion of the AFDC eligibility determination process."

³ Enacted after the audit period of this report, the Fostering Connections to Success and Increasing Adoptions Act of 2008 (P.L. 110-351, Oct. 7, 2008) delinked adoption assistance from AFDC eligibility, with new eligibility criteria to be phased in from fiscal year (FY) 10 to FY 18. (See ACYF-CB-PI-08-05, http://www.acf.hhs.gov/programs/cb/laws_policies/policy/pi/2008/pi0805.htm.) This report cites to the statutory provisions as in effect during the audit period.

⁴ *Child Welfare Policy Manual*, § 8.2B, question 1.

The Federal Government pays its share of a State's adoption assistance payments based on the Federal medical assistance percentage (FMAP), which varies depending on the State's relative per capita income (Section 474(a)(1) of the Act).

Adoption Assistance in Massachusetts

In Massachusetts, the Department of Children and Families (State agency) administers the Title IV-E adoption assistance program. To claim costs for Title IV-E reimbursement, the State agency submits quarterly expenditure reports (Federal Forms ACF-IV-E-1) to the Federal Government.

In FYs 2006 through 2008, the FMAP for Massachusetts' adoption assistance payments was 50 percent. During this 3-year period, the State agency claimed \$153,841,972 (\$76,920,980 Federal share) in Title IV-E adoption assistance payments on its quarterly expenditure reports.

OBJECTIVE, SCOPE, AND METHODOLOGY

Objective

Our objective was to determine whether the State agency complied with certain Federal requirements in claiming selected adoption assistance payments for Federal reimbursement.

Scope

During FY 2006, the State agency claimed Federal reimbursement for adoption assistance payments totaling \$50.2 million on behalf of 7,127 children. We limited our review to 1,500 children for whom the State agency made the highest payments, which amounted to \$17.5 million. For ineligible children identified on FY 2006 claims, we determined whether the State agency continued to claim payments in FYs 2007 and 2008.

We limited our review of the State agency's internal controls to the process used to determine a child's eligibility and claim Title IV-E adoption assistance payments during the 3 years that ended September 30, 2008.

We performed fieldwork at the State agency in Boston, Massachusetts.

Methodology

To accomplish our objective, we:

- reviewed applicable Federal and State laws, regulations, and guidance;
- reconciled total adoption assistance payments claimed on the State's quarterly expenditure reports for FYs 2006 through 2008 to individual supporting claims;

- interviewed State agency officials regarding policies and procedures for determining adoption assistance payment amounts, making periodic assistance payments to adoptive families, and maintaining adoption assistance records;
- obtained and sorted by child a list of all adoption assistance payments that the State agency made for FY 2006;
- selected for review the 1,500 children for whom the State agency made the highest payments for FY 2006;
- determined whether State agency records demonstrated that payments met the following Federal reimbursement requirements:
 - the child was eligible for Title IV-E adoption assistance because he or she (1) met AFDC requirements at the time of removal from the home, (2) met the requirements for Supplemental Security Income, (3) was the child of a minor parent in foster care, or (4) was previously eligible for Title IV-E adoption assistance and
 - the State agency had obtained a judicial determination that remaining in the home was contrary to the child's welfare;
- calculated the Federal share of unallowable payments claimed on behalf of the 1,500 children by using the FMAP applicable to FY 2006; and
- identified payments for these same children for FYs 2007 and 2008 and calculated the Federal share of unallowable payments for those years by using the FMAP applicable to each year.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

FINDINGS AND RECOMMENDATIONS

In FYs 2006 through 2008, the State agency complied with the Federal requirements that we reviewed in claiming adoption assistance payments for 1,242 of the 1,500 children selected for review. However, the State agency claimed \$8,485,080 (\$4,242,540 Federal share) in unallowable adoption assistance payments for 258 children whose eligibility the State agency did not support with adequate documentation. Specifically, the State agency did not provide evidence that:

- 133 children met income eligibility requirements at the time of removal from their homes (\$2,287,328 Federal share) and

- 125 children met judicial determination requirements that continuation in their homes would be contrary to their welfare (\$1,955,212 Federal share).

The State agency claimed unallowable payments because it did not have adequate controls in place to ensure that it maintained proper documentation. The State agency informed us that it has put in place controls to ensure that it maintains the proper financial and judicial determination documentation.

UNALLOWABLE PAYMENTS

Federal Requirements

Pursuant to 45 CFR § 92.42, a grantee must maintain all financial and programmatic records, supporting documentation, statistical records, and other pertinent records that are required to be maintained by law or regulation or are otherwise reasonably considered pertinent to program regulations or the grant agreement. The retention period is generally 3 years; if grant support is continued or renewed quarterly, the retention period for each year's records starts on the day the grantee submits its expenditure report for the last quarter of the Federal FY. In addition, the *Child Welfare Policy Manual*, § 5.2, question 1, states:

... in the case of reviews of the eligibility of foster care and adoption assistance claims, the State Agency must make available foster care and adoption records (including sealed foster care and adoption records) in order to document the eligibility of the beneficiaries (children) and related costs of administration. If the requested records cannot or are not made available, all payments made on behalf of the children whose records have not been made available for review and associated costs will be disallowed.

Section 473(a)(1)(A) of the Act states that each State having a Title IV-E plan must enter into adoption assistance agreements (as defined in section 475(3)) with the adoptive parents of children with special needs.

Pursuant to section 473(a)(2)(A)(i)(I) of the Act, a special-needs child may be ruled eligible for Title IV-E adoption assistance if that child would have been eligible for assistance under the AFDC program in the home of removal. Section 473(a)(2)(A)(i)(I)(aa) of the Act specifies that a State may claim Federal funding for adoption assistance paid to an adoptive parent for an AFDC-eligible child if there is evidence that a judicial determination was made that the child's continuation in the home from which he or she was removed would be contrary to the child's welfare or if the child was removed from the home based on a voluntary placement agreement and previously received Title IV-E foster care maintenance payments.

General principles for determining whether costs are allowable for State, local and tribal governments are set forth in 2 CFR part 225, Appendix A, section C.1.j (formerly Office of Management and Budget Circular A-87, Attachment A, section C.1.j). Pursuant to section C.1.j, costs must be adequately documented.

Inadequate Adoption Assistance Eligibility Documentation

For 258 children, the State agency did not maintain adequate documentation of adoption assistance eligibility, including, but not limited to, evidence of AFDC or Supplemental Security Income eligibility, judicial determinations that remaining in the home would be contrary to the welfare of the children, or voluntary placement agreements. Specifically, the State agency did not provide evidence that:

- 133 children met income eligibility requirements at the time of removal from their homes and
- 125 children met the judicial determination requirements that continuation in their homes would be contrary to their welfare.

In FY 2006, the State agency claimed adoption payments totaling \$2,956,398 (\$1,478,199 Federal share) for 258 ineligible children. The State agency continued to claim adoption payments totaling \$5,528,682 (\$2,764,341 Federal share) for 249 of the 258 children in FY 2007 and 236 children in FY 2008. As a result, the State agency incorrectly claimed \$4,242,540 Federal share (\$1,478,199 + \$2,764,341) in adoption assistance payments.

The State agency claimed unallowable payments because it did not have adequate controls in place to ensure that it maintained proper documentation. The State agency informed us that it has put in place controls to ensure that it maintains the proper financial and judicial determination documentation and that it was continuing to look for additional documentation to support the undocumented claims.

RECOMMENDATIONS

We recommend that the State agency:

- make a financial adjustment of \$4,242,540 (Federal share) on its next quarterly expenditure report for the unallowable payments that we identified or provide ACF with additional documentation to support the allowability of those claims,
- discontinue claiming adoption assistance payments for children whose eligibility the State agency did not support, and
- review documentation for adoption assistance claims after FY 2008 and make a financial adjustment for any unallowable payments.

STATE AGENCY COMMENTS

In written comments on our draft report, the State agency concurred with our first recommendation and stated that it would make a financial adjustment of \$773,523 on its next quarterly expenditure report for the unallowable payments associated with 44 of the 258 children whose eligibility the State agency could not support with adequate documentation. For the remaining unallowable payments of \$3,469,017 associated with 214 of the 258 children, the

State agency stated that it would provide additional documentation for ACF's consideration. The State agency also stated that it had instituted improvements to its internal quality control processes. The State agency did not specifically address our second and third recommendations.

The State agency's comments are included in their entirety as the Appendix.

APPENDIX



Deval L. Patrick
Governor



Timothy P. Murray
Lieutenant Governor



JudyAnn Bigby, M.D.
Secretary



Angelo McClain
Commissioner

Commonwealth of Massachusetts
Executive Office of Health and Human Services
Department of Children and Families

24 Farnsworth Street, Boston, MA 02210
Tel. 617-748-2000 ★ F 617-261-7435 ★ www.state.ma.us/dcf

July 27, 2011

Mr. Michael J. Armstrong
Regional Inspector General for
Audit Services
Region I
John F Kennedy Federal Building
Room 2425
Boston, MA 02203

Report Number: A-01-11-02500
Review of MA Title IV-E Adoption Assistance Costs for Federal Fiscal Years 2006 Through 2008

Dear Mr. Armstrong:

MA Department of Children & Families (MA DCF) is in receipt of the draft report on the audit referenced above. Departmental staff have reviewed the report and submit the following as our comments to the recommendations included in this report.

MA DCF acknowledges that incorrect claims were submitted on behalf of 44 of the total 1500 children reviewed. These erroneous claims were submitted sometime during the federal fiscal years of 2006 through 2008. The inclusion of these claims to the federal Title IV-E Adoption Assistance (AA) program are only now understood to be inappropriate, given DCF's inability to reconstruct certain financial and/or legal documentation to support IVE eligibility. The \$773,523 associated with these 44 claims will be adjusted on the quarterly expenditure report submitted after the release of the final report by the Inspector General, along with any additional claiming since federal fiscal year 2008.

MA DCF will work with ACF and provide them with additional documentation for their consideration to accept the remaining 214 outstanding claims from this review.

During the period under review, DCF submitted Title IV-E adoption assistance claims of \$153.8M on behalf of approximately 5,000 children per quarter. The \$773,523 of federal reimbursement submitted on behalf

of the 44 children represents only 0.005 of the total dollars claimed during the period under review. Regardless of the overall error rate, DCF has instituted a number of improvements to its internal QC processes specific to older Adoption Assistance Title IVE claims. 73% of the failed cases relate to events prior to calendar year 2000, supporting the positive results from internal audits and reviews of Title IVE adoption assistance claiming.

Please refer any questions to Ellen Finnegan, MA DCF at 617-748-2069.

Sincerely,

/Angelo McClain/

Angelo McClain, PhD, LICSW
Commissioner, MA DCF

Cc: Virginia Peel, General Counsel, MA DCF
Mary Gambon, Asst Commissioner, MA DCF
Jennifer MacBlane, Senior Consultant, PCG
Barry Kroenig, Audit Liaison, MA DCF
Michelle McKeen, Revenue Manager, EOHHS
Ellen Finnegan, CFO, MA DCF