



Memorandum

JAN 6 1992

Date

From Richard P. Kusserow
Inspector General

Subject Review of Foster Care Maintenance Payments Made by the
Philadelphia County Department of Human Services
(A-03-91-00551)

To Jo Anne B. Barnhart
Assistant Secretary for
Children and Families

The purpose of this memorandum is to alert you to the issuance on January 7, 1992 of our final audit report. A copy is attached.

For Fiscal Year (FY) 1989, Pennsylvania's Department of Public Welfare (State agency) claimed \$25.4 million under the Title IV-E Foster Care program for costs incurred by the Philadelphia County Department of Human Services (DHS). The State agency received about \$14.6 million in Federal financial participation (FFP) reimbursement.

Our statistical sample of the 33,154 monthly maintenance payments made by DHS during FY 1989 showed that the State agency was not entitled to almost \$6.8 million¹ of the FFP because 57 percent of the claims reviewed were in violation of one or more program requirements as noted below:

- 0 Forty-one percent of claims sampled involved children who were voluntarily placed in foster care. Since voluntary placements were not covered by the State agency's State plan, these claims were not eligible for FFP.
- 0 Fifteen percent of claims sampled involved children who lacked the required judicial determinations.

¹ This amount was projected based on the number of claims in our sample with one or more violations. The projected FFP attributed to specific violations totaled more than \$6.8 million.

² The separate percentages add to more than 57 percent because some claims had more than one error associated with them.

- 0 Four percent of claims sampled involved children residing in foster homes that were not documented as being evaluated and approved annually. Annual evaluations and approvals were required by State agency regulations.
- 0 Two percent of claims sampled involved children who were not eligible for the Aid to Families With Dependent Children (AFDC) program. Eligibility for AFDC is a prerequisite for Title IV-E eligibility.
- 0 One percent of claims sampled involved children who exceeded the age requirements for the Title IV-E Foster Care program.

We are making procedural recommendations in this report aimed at improving the State agency's administration of the Title IV-E Foster Care program. We are also recommending that the State agency make a financial adjustment of almost \$6.8 million for the ineligible claims identified in this report.

The State agency generally disagreed with our findings and recommendations. Operating Division officials concurred in our findings and recommendations.

If you have any questions, please call me or have your staff contact John A. Ferris, Assistant Inspector General for Human, Family and Departmental Services Audits, at (202) 619-1175.

Attachment

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**REVIEW OF FOSTER CARE
MAINTENANCE PAYMENTS MADE BY
PHILADELPHIA COUNTY DEPARTMENT
OF HUMAN SERVICES**



DEPARTMENT OF HEALTH & HUMAN SERVICES

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Our Reference: Common Identification Number A-03-91-00551

Ms. Karen F. Snider
Acting Secretary
Pennsylvania Department of Public Welfare
333 Health and Welfare Building
Harrisburg, Pennsylvania 17120

Dear Ms. Snider:

Enclosed for your information and use are two copies of an HHS/OIG Office of Audit Services final audit report titled REVIEW OF FOSTER CARE MAINTENANCE PAYMENTS MADE BY THE PHILADELPHIA COUNTY DEPARTMENT OF HUMAN SERVICES AND CLAIMED FOR FEDERAL FINANCIAL PARTICIPATION BY THE PENNSYLVANIA DEPARTMENT OF PUBLIC WELFARE. Your attention is invited to the audit findings and recommendations contained in the report. The official named below will be communicating with you in the near future regarding implementation of these items.

In accordance with the principles of the Freedom of Information Act (Public Law 90-23), HHS/OIG Office of Audit Services 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 Section 5.71 of the Department's Public Information Regulation, dated August 1974, as revised).

To facilitate identification, please refer to the referenced common identification number in all correspondence relating to this report.

Sincerely yours,

G. A. Bafalko
Regional Inspector General
for Audit Services

Enclosure

HHS Contact:

Director, Office of Fiscal Operations
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SUMMARY

For Fiscal Year (FY) 1989 (October 1, 1988 to September 30, 1989), the Philadelphia Department of Human Services (DHS) invoiced 33,154 Title IV-E Foster Care maintenance claims totaling about \$25.4 million, and requested reimbursement from the Pennsylvania's Department of Public Welfare (the State agency). The State agency claimed these costs under the Title IV-E Foster Care program, and was reimbursed about \$14.6 million in Federal financial participation (FFP).

Our review showed that the State agency was not entitled to almost \$6.8 million of FFP because a high percentage of claims involved 1 or more violations of Federal and/or State regulations.

Through statistical sampling techniques, the Office of Inspector General (OIG) estimated that 57 percent of the claims invoiced by DHS during FY 1989 and claimed by the State agency for FFP were ineligible for Federal reimbursement under the Title IV-E Foster Care program.

Most of the violations--41 percent of the claims reviewed and about \$5.3 million' of the FFP questioned--related to claims for children who were voluntarily placed in foster care. The DHS claimed these costs and the State agency claimed FFP for these costs knowing that the State plan did not contain provisions for voluntary placements. Since there were no provisions in the State plan for voluntary placements, the State agency was not entitled to FFP for costs associated with these placements.

Another major source of the violations was judicial determinations. We found that 15 percent of the claims reviewed and \$3,095,761 of the FFP questioned related to cases involving children who lacked a judicial determination required by Title IV-E.

We found other errors as well. About 7 percent of the claims reviewed and \$823,622 of the FFP questioned involved foster homes that were ineligible for participation in the Title IV-E Foster Care program, and

'The FFP amounts attributed to the specific types of regulatory violations exceed the total of \$6.8 million because some of the claims reviewed involved more than 1 violation.

children that were either ineligible for the Aid to Families With Dependent Children (AFDC) program (a prerequisite for Title IV-E eligibility) or over age.

Subsequent to the period of our audit (FY 1989), the State agency revised its State plan to allow for voluntary placements. Therefore, we are not making any procedural recommendations relative to these placements. We are making procedural recommendations in this report aimed at improving other aspects of the State agency's administration of the Title IV-E Foster Care program. We are also recommending that the State agency make a financial adjustment of \$6,786,678 for the ineligible claims identified in this report.

By letter dated July 18, 1991, the State agency responded to a draft of this report. The State agency disagreed with our findings and recommendations and provided additional information regarding the AFDC eligibility of six children referred to in the draft audit report.

We have reviewed the State agency's response and have made certain changes to this report. The major issues raised by the State agency are summarized at the end of this report along with our comments. The State agency's letter is included as Appendix B to this report. We have not included the attachments to the letter because of their bulk and to protect the confidentiality of foster parents and children.

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Abbreviations

AFDC Aid to Families With Dependent Children
FFP Federal financial participation
OIG Office of Inspector General

INTRODUCTION

BACKGROUND

The Adoption Assistance and Child Welfare Act (hereafter, the Act) of 1980, Public Law 96-272, became effective October 1, 1980. The Act established the Title IV-E program--Federal Payments for Foster Care and Adoption Assistance. The foster care component of the Aid to Families With Dependent Children (AFDC) program, which had been an integral part of the AFDC program under Title IV-A of the Social Security Act, was replaced by Title IV-E, effective October 1, 1982.

Title IV-E was intended as a means of reforming the nation's approach to foster care and adoption. At the time Title IV-E was enacted, the foster care system was perceived to be a holding system for children living away from their parents with little hope of being reunited with their families or achieving a permanent foster home. Title IV-E provided for Federal sharing in payments of maintenance costs associated with the care of foster children if certain conditions were met. The conditions were aimed at preventing unnecessary separation of the child from the parents; improving quality of care and services to children and their families; and ensuring permanency through reunification with parents or other alternative permanency planning.

The Administration for Children and Families (ACF) through its Administration for Children, Youth and Families (ACYF) administers the Title IV-E Foster Care program for the Department of Health and Human Services (HHS). In the Commonwealth of Pennsylvania, the Department of Public Welfare (State agency) is responsible for administering the Foster Care program at the State level. The State agency, in turn, delegated, under the provisions of State law, the authority to the Philadelphia County Department of Human Services (DHS) to administer the program within that County.

The DHS submitted a Summary Invoice (CY64-PM) to the State agency each quarter to claim Title IV-E maintenance, administrative, and training costs incurred during the quarter. Attached to the Summary Invoice was a Monthly Reimbursement Report for each month of the quarter. The Monthly Reimbursement Report claimed costs by individual child and showed the number of days that each child remained in the program during that month. The State agency reimbursed DHS on the basis of the Summary Invoice, and claimed FFP on the quarterly Title IV-E Statement of Expenditures (Form No. IV-E-2) submitted to ACF (a State Quarterly Report of

Expenditures and Estimates [Form No. IV-E-121 is currently submitted to ACF).

The DHS' Summary Invoices and Monthly Reimbursement Reports covering the period October 1, 1988 through September 30, 1989 (FY 1989) included claimed costs of \$25,440,415 for 33,154 foster care maintenance claims. The State agency subsequently claimed these costs and were reimbursed \$14,570,020 in FFP.

SCOPE OF AUDIT

Our audit was performed in accordance with government auditing standards. The objective of our audit was to determine if foster care maintenance costs of \$25,440,415 claimed by DHS on the FY 1989 Summary Invoices and subsequently claimed for FFP by the State agency met provisions of Title IV-E of the Social Security Act and implemented Federal regulations.

We reconciled costs claimed by DHS on the FY 1989 Summary Invoices to the Quarterly Statement of Expenditures reports prepared by the State agency and submitted to ACF. We compared provisions of Title IV-E and Federal regulations to the State agency's and DHS' written regulations and policies to ensure compliance with Federal regulations. To test compliance with the regulations, we statistically selected on a random basis 100 of the 33,154 individual foster care maintenance claims listed on DHS' FY 1989 Monthly Reimbursement Reports. (See Appendix A for the sample methodology used in this audit).

We reviewed case files associated with the 100 selected claims and compared data in case files to FFP eligibility requirements established by Title IV-E. We identified the number and amount of claims in our sample that did not meet the FFP eligibility requirements, and used a standard scientific estimation process to identify the probable number and amount of claims in the total population (33,154 maintenance claims made by DHS) that were ineligible for FFP. We also reviewed case files with DHS and State agency personnel to obtain their views on those claims that we determined were not in accordance with Title IV-E requirements.

Other than the issues discussed in the FINDINGS AND RECOMMENDATIONS section of this report, we found no instances of noncompliance with applicable laws and regulations. With respect to those items not tested (that is, not subject to our statistical sample), nothing came to our attention to cause us to believe that the

untested items were not in compliance with applicable laws and regulations.

Our audit was conducted at State agency offices in Harrisburg and Philadelphia, Pennsylvania and at DHS in Philadelphia. Our audit was performed during the period December 1990 through March 1991.

FINDINGS AND RECOMMENDATIONS

INELIGIBLE MAINTENANCE COSTS CLAIMED FOR FFP

Our review at DHS disclosed widespread noncompliance with Federal regulations and provisions of the State plan. We estimate that at least 18,898 (57 percent) of the 33,154 foster care maintenance claims invoiced by DHS for FY 1989 and claimed for FFP by the State agency were ineligible for Federal reimbursement under the Title IV-E Foster Care program. As indicated by the percentages below (they add to more than 57 percent), some claims had more than one error associated with them.

- 0 Forty-one percent of the claims for payment were made on behalf of children who were voluntarily placed in foster care. The State agency's approved State plan did not include a provision for voluntary placements.
- 0 Fifteen percent of the claims were made on behalf of children who lacked the required judicial determination.
- 0 7 percent of the claims contained other errors associated with foster homes that were ineligible for the Title IV-E Foster Care program, and children who were either ineligible for AFDC or over age.

The Office of Inspector General (OIG) estimates that widespread violations of Federal regulations by DHS resulted in the State agency being reimbursed at least \$6,786,678 in excess FFP under the Title IV-E Foster Care program.

We identified widespread violation of Federal regulations through a statistical sample of the 33,154 foster care maintenance claims totaling \$25,440,415 that were made by

DHS on behalf of children participating in the Title IV-E Foster Care program during FY 1989. These claims were listed on the Monthly Reimbursement Reports which were attached to the Summary Invoices for FY 1989.

We randomly selected 100 of these claims and determined that 57 were ineligible for FFP because of 1 or more of the violations described above. Using a standard scientific estimation process, we concluded that there was a 95 percent probability that the State agency claimed FFP for 18,898 claims, totaling at least \$11,849,930, ineligible for FFP under the Title IV-E Foster Care program. The State agency was reimbursed FFP of at least \$6,786,678 for these ineligible claims.

Our projection is an unduplicated error projection and, therefore, does not take into account the fact that 6 of the 100 claims were not in compliance with more than 1 Title IV-E requirement. To show the relative significance of each type of violation and its impact on the State agency's claims for FFP, we have made separate projections by type of violation. Taken separately, these projections can be used to reasonably estimate the relative seriousness of the specific violation. However, since these separate projections are based on the number of violations noted in the claims sampled rather than on the number of claims with violations, the separate projections cannot be added to arrive at our projection for the ineligible FFP reimbursed the State agency under the Title IV-E Foster Care program.

Voluntary Placements

Based on the results of our statistical sample, we estimate that 13,593 claims, or 41 percent of the foster care maintenance claims invoiced by DHS for FY 1989 and claimed for FFP by the State agency, were ineligible for FFP because the children on whose behalf the claims were made were voluntarily placed in foster care by parents or guardians. The State agency's State plan did not provide for voluntary placement. The State agency was reimbursed FFP of \$5,277,685 for these ineligible claims.

Federal regulations, 45 CFR Chapter XIII, Section 1356.20 (a) require that:

"to be in compliance with the State plan requirements and to be eligible to receive FFP in the costs of foster care maintenance payments...a State must have a State plan approved by the Secretary that meets the requirements of this part".

Section 1356.20 (b) adds that:

"if a State chooses to claim FFP for voluntary foster care placements, the State must meet the requirements of paragraph (a) of this section and section 102 of Pub. L. 96-272, the Adoption Assistance and Child Welfare Act of 1980, as it amends section 472 of the Act".

An ACYF Policy Interpretation Question (PIQ) 89-03, dated July 24, 1989 also dealt with FFP for voluntary placements in the Title IV-E Foster Care program. According to this PIQ, for a State to claim FFP for children voluntarily placed in foster care, it must have such a provision in its Title IV-E State plan. The PIQ also states that a State which does not have a voluntary placement provision in its State plan cannot claim FFP for a child who has been voluntarily placed even if there has been a subsequent judicial determination made within 6 months of the time that the child had last been living with a parent or guardian. In States that accept voluntary placements but do not have a voluntary provision in its State plan, voluntary placements are ineligible for FFP during the entire stay in foster care.

The State agency did not include a provision for voluntary placements in its FY 1989 State plan for the Title IV-E Foster Care program. Therefore, claims made on behalf of children voluntarily placed in foster care were not eligible for FFP. There were 41 claims in our sample of 100 where an agreement was signed by a parent or guardian and a representative of DHS to voluntarily place the child in foster care. Subsequently, a judicial determination was made to the effect that the placement was in the best interest of the child.

The 41 claims that were made on behalf of children voluntarily placed in the Title IV-E program totaled \$27,795. We projected these results to the total number of claims invoiced by DHS and claimed for FFP by the State agency. We estimate that the State agency claimed \$9,215,141 (point estimate) for claims invoiced during FY 1989 on behalf of children who were voluntarily placed in the Title IV-E Foster Care program. The State agency was reimbursed FFP of \$5,277,685 for these ineligible claims.

Judicial Determinations

Based on the results of our statistical sample, we estimate that 4,973 claims, or 15 percent of the foster care maintenance claims invoiced by DHS for FY 1989 and

claimed for FFP by the State agency, were ineligible for FFP because the children on whose behalf the claims were made lacked a judicial determination required by Title IV-E. The State agency was reimbursed FFP of \$3,095,761 for these ineligible claims.

Section 472(a)(1) of the Act and implementing regulations require that removal of a child from the home must be either by a judicial determination or by a voluntary placement agreement. In order to claim FFP for payments made on behalf of children removed from the home by a judicial determination, the judicial determination must be a court order signed by a judge that contains a statement that continuation of residence at home is contrary to the welfare of the child. For maintenance payments made on behalf of a child removed from the home on or after October 1, 1983, the court order must also state that reasonable efforts were made to prevent the child's removal from the home and to make it possible for the child to return home. If the judicial determination is subsequent to the removal of the child, the court order should also state that reasonable efforts were made to reunite the child with the family.

In our sample of 100 claims, 59 were associated with children removed from the home as a result of a court order. For 2 of the 59 children, DHS could not provide us with a copy of the judicial determinations. Since there was no assurance that the judicial determinations met the Title IV-E requirements for FFP, we have disallowed these costs for FFP purposes.

There were judicial determinations for the 57 remaining children. However, the court orders relative to the removal of 13 of these children from their homes were not in compliance with Title IV-E requirements in that:

- 0 court orders for 10 claims made on behalf of the children removed from their homes after October 1, 1983 made no mention of efforts made to prevent the child's removal from the home and to make it possible for the child to return home; and/or that continued residence at home was contrary to the welfare of the child.
- 0 court orders for three claims made on behalf of children removed prior to October 1, 1983, made no mention that living at home would be contrary to the welfare of the child.

The 15 claims ineligible for FFP, including the 2 cases that were missing a court order, totaled \$16,304. We

projected these results to the total number of claims invoiced by DHS and claimed by the State agency for FFP. We estimate that the State agency claimed \$5,405,349 (point estimate) for claims invoiced during FY 1989 on behalf of children who lacked the judicial determination necessary for Federal reimbursement under the Title IV-E Foster Care program. The State agency was reimbursed FFP of \$3,095,761 for these ineligible claims.

Other Errors

We found other errors in our sample cases related to foster homes that were ineligible for the Title IV-E Foster Care program, and to children who were either ineligible for AFDC or over age. Since the number of errors within these categories were not individually projectable, we consolidated the errors into a single category.

Based on the results of our statistical sample, we estimate that 2,321 claims or 7 percent of the maintenance claims invoiced by DHS for FY 1989 and claimed for FFP by the State agency, were not eligible for Federal reimbursement. The State agency was reimbursed FFP of \$823,622 for these ineligible claims.

Foster Home Eligibility

The Act and implementing regulations require that for foster care maintenance payments to be eligible for FFP, the facilities that receive payments must be licensed or approved in accordance with State established requirements. Under the Pennsylvania Code, Title 55: Public Welfare, Chapter 20, the State agency issues a Certificate of Compliance to the legal entity permitting it to operate a specific type of facility or agency, at a given location, for a specific period of time, and according to appropriate Departmental program licensure or approval regulations. Section 20.31 of Title 55 states that a facility or agency will be evaluated at least once every 12 months.

The State agency issues certificates to residential child care facilities and private agencies that operate foster family homes. Certificates are also issued to public agencies, that is, governmental entities that, in turn, are permitted to approve foster family homes. The State agency issued DHS a Certificate of Compliance for a public agency, thereby enabling DHS to approve foster family homes for participation in the foster care program.

According to DHS policy and State regulations, reevaluations of all foster family homes must be conducted every year to assure that homes continue to meet State and DHS requirements. The results of the evaluation are reported on a Caretaker/Foster Family Annual Performance Evaluation report (Form 85-465). Through this evaluation process, the foster home is either approved, provisionally approved, or disapproved. Some factors which are considered in the evaluation process are: the physical adequacy of the home, the financial status of the foster parents, the quality of care provided by the foster parents, the ability of the foster parents to supervise and discipline children, and several safety requirements.

Of the 100 claims that we reviewed, 73 pertained to family homes, 8 pertained to group homes and 19 pertained to institutions. The group homes and institutions associated with the 27 claims had a valid Certificate of Compliance issued by the State agency for the period of our review. Therefore, these facilities were eligible for Title IV-E Foster Care payments.

Of the 73 claims pertaining to family homes, DHS could not locate an annual performance evaluation report to substantiate that 4 homes had been evaluated and approved by DHS. In the absence of documentation showing that DHS had approved the four homes for program participation, we believe that claims associated with the homes were ineligible for FFP. The 4 ineligible claims totaled \$1,117.

AFDC Eligibility of Foster Care Children

According to Section 472 (a) 4 of the Social Security Act, a child to be eligible for the Title IV-E Foster Care program must have also been eligible for AFDC benefits at the time of his or her removal from the home. In Philadelphia, DHS required that all children removed from a home have an Eligibility Determination form (CY61) completed by a social worker. The form lists all the eligibility criteria used in determining a child's eligibility for the Title IV-E Foster Care program, including whether the child is eligible for AFDC.

Our review showed that in two cases, DHS could not locate an Eligibility Determination form to substantiate that the children were eligible for AFDC at the time of their removal from the home. The DHS claimed \$1,298 for these two cases.

Over Age Foster Children

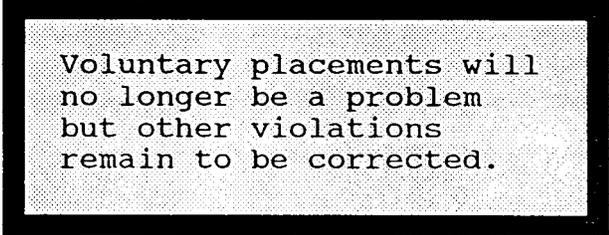
The Social Security Act, Title IV, Part A, Section 406(a) requires that to be eligible for foster care, a child be under the age of 18. At the option of the State, a child under the age of 19 may be eligible if a full-time student in a secondary school (or in the equivalent level of vocational training), and if before reaching 19, may reasonably be expected to complete the program of such secondary school (or such training).

Our review showed that in 1 instance the foster care child was 19 years and 4 months old at the time DHS invoiced the sampled payment. The sampled claim totaled \$1,922.

CONCLUSIONS AND RECOMMENDATIONS

Based on the results of our statistical sample, we estimate that at least \$11.8 million of the \$25.4 million reported by DHS for FY 1989 foster care maintenance payments and subsequently claimed by the State agency for FFP under Title IV-E was ineligible for Federal reimbursement. The State agency was reimbursed FFP of at least \$6,786,678 for these ineligible claims.

The primary reason why the rate of ineligible claims was so high was DHS' insistence on claiming costs associated with voluntary foster care placements, knowing that the State plan did not provide for Federal reimbursement for these placements. We estimate that 41 percent of DHS' claims were for voluntary placements. Other DHS violations of Federal and State regulations involved: lack of satisfactory judicial determinations; ineligible foster family homes; and children either ineligible for AFDC or over age.



Voluntary placements will no longer be a problem but other violations remain to be corrected.

We are not making any recommendations for procedural improvement relative to voluntary placements since they are now allowed under the FY 1990 State plan. We believe, however, that improvements should be made in DHS' compliance with other Federal and State requirements.

We, therefore, recommend that the State agency:

1. Emphasize to DHS the importance of full compliance with Federal and State regulations regarding: judicial determinations of children placed in foster care, annual evaluations of foster family homes, AFDC eligibility of children placed in foster care, and the age limit for children participating in the Title IV-E Foster Care program.
2. Periodically monitor DHS' performance in complying with Federal and State regulations regarding the Title IV-E Foster Care program.
3. Make a financial adjustment of \$6,786,678 for FFP in maintenance claims invoiced by DHS for FY 1989 that were ineligible for Federal reimbursement under the Title IV-E Foster Care program.

STATE AGENCY RESPONSE AND OIG COMMENTS

The State agency responded that our findings could not be used as a basis for a disallowance of FFP because our sampling methodology was incorrect. The State agency disagreed with all findings except for the one dealing with the over age child. The State agency also provided additional information on the six children referred to in our finding on AFDC ineligibility.

In commenting on our recommendations, the State agency stated that it conducts annual evaluations of DHS to assure compliance with all applicable regulations. The reviews will continue and appropriate corrective action will be required of DHS for all areas of noncompliance. The State agency did not agree to make the recommended financial adjustment.

We have reviewed the State agency's response and have made minor changes to this report. As noted below, we believe that our statistical sampling methodology was correct and that our findings were valid.

Statistical Sample

The State agency stated that our statistical sample did not comply with standards set forth in an ACYF review guide that we used in the review. The guide called for a sample size of at least 330 claims while our sample size was 100. The State agency also stated that our sample was invalid in that it

did not include supplemental and retroactive claims in the universe.

We used the ACYF review guide as an audit tool in reviewing case files that we selected using OIG statistical sampling policies and procedures. We are not required to, nor would we, use the ACYF guide to determine the sample size when implementation of OIG policies and procedures results in a statistically valid sample at less cost to the Federal Government.

OIG audits are conducted in accordance with the Government Auditing Standards (1988 Revision) issued by the General Accounting Office (GAO). This document sets out "Standards for Audit of Governmental Organizations, Programs, Activities and Functions." Broadly, under these standards, an OIG audit must provide relevant, valid, reliable, factual, and convincing support for the auditor's conclusions. Our statistical sample complies with OIG policies and procedures and provides valid, reliable support for our findings. Further, a smaller size sample does not place the State at a disadvantage since it results in a wider "confidence level" and a lower "lower limit". We used the "lower limit" in our recommended financial adjustment.

The fact that supplemental and retroactive claims were excluded from the universe of sampled claims has no bearing on our statistical projection for the period under review and for the various types of errors disclosed during the review. We applied the results of our statistical sample to the universe from which the sample was drawn--the 33,154 foster care maintenance claims totaling \$25,440,415.

Voluntary Placements

The State agency stated that since a policy interpretation was not issued until July 1989 and prior reviews had approved the conversion of voluntary placements after the date of subsequent judicial determinations, the costs of such placements are allowable even though the Title IV-E State plan did not contain the voluntary placement provision.

The ACYF policy interpretation referred to by the State agency interprets Federal regulations that were in effect throughout the entire year that we reviewed. The regulations require that for voluntary placements to be allowable under the Title IV-E Foster Care program, such placements must be specifically provided for in the State

plan. Regarding the State agency's comments relative to prior HHS approval of converted voluntary placements, an ACF official denied that this practice was approved by HHS. This, however, is not the issue. The issue is that voluntary placements are not allowable unless specified in the State plan.

Judicial Determinations

The State agency mentioned a May 1991 Departmental Appeals Board (DAB) decision that specified the requirements for submission of documentation regarding the judicial determinations of reasonable efforts. The State agency stated that it did not have time to review the decision and to review the necessary court records to obtain the additional documentation.

With regard to the disallowance related to the "contrary to the welfare" language, the State agency believed that the existing language in the court orders' language was sufficient to meet the standards set forth in a recent policy interpretation, ACYF-PIQ-91-03.

The State agency did not identify the DAB decision that it referred to and ACF was unaware of any recent decision that affected our audit finding. The ACYF-PIQ-91-03 referred to by the State agency is dated April 3, 1991, after our on-site audit effort was completed. The policy interpretation deals with court orders which sentence children to juvenile detention facilities.

We reevaluated our questioned cases in accordance with this policy interpretation. The interpretation applied to two cases. However, there was no effect since we also questioned both cases because the court orders were deficient regarding the reasonable efforts provisions of the Federal guidelines. As a result, our overall projection in this particular finding is unaffected by ACYF-PIQ-91-03.

Eligibility of Foster Homes

The State Agency stated that approval of a foster home is effective until an adversary action to revoke the home's approval is made and that the absence of an annual reevaluation does not, in itself, mean that a foster home is no longer approved.

State regulations and DHS policy in effect at the time of our review required an on-site inspection of a foster home at least every 12 months. The results of the evaluations were to be recorded on a Caretaker/Foster Family Annual Performance Evaluation Report, and were to lead to the home being approved, provisionally approved or disapproved for program participation. The DHS was unable to provide us with the reports to support 4 of the 100 claims reviewed. Since neither DHS nor the State agency could assure that the four homes were evaluated annually as required, or, if evaluated, were approved for program participation, we questioned the FFP associated with the four claims.

More important than the FFP issue, however, is the fact that the State agency appears to be accepting the fact that foster family homes, if approved originally, do not have to be evaluated annually. According to the State agency, these homes can continue to service foster care children until direct, adversary action is taken against them.

We question how timely, direct action can be taken against substandard homes unless regular evaluations are performed to identify those homes that are substandard. In our opinion, evaluations of foster family homes serve a single primarily purpose--the protection of the foster child or children placed in the homes. If the State agency does not require annual evaluations of these homes and strictly enforce this requirement, the protection afforded these children is diminished.

AFDC Eligibility

The State agency furnished additional documentation for the six questioned cases in our draft report.

In our opinion, the additional documentation supported the AFDC eligibility for four of the six cases. In one case, the State agency agreed that AFDC eligibility could not be determined. In another case, the copy of the CY-61 provided by the State agency showed that the child was ineligible for AFDC.

Of the four cases accepted, three were questioned for other reasons as well. Therefore, we deleted just one of the four cases from the overall statistical projection made in this report.

Over Age Children

The State agency acknowledged that the one individual cited in our draft report was over age and, therefore, ineligible.

Summary

We believe that our findings show widespread violation of Federal and State regulations by DHS. The State agency is responsible for ensuring that these violations are halted. Revision of the State plan to allow voluntary placements corrected the most common violation. Still 22 percent of the claims that we reviewed contained other types of violations. We continue to recommend that the State agency reemphasize to DHS the importance of full compliance with Title IV-E requirements, monitor DHS to ensure that maximum compliance is achieved, and make a financial adjustment of \$6,786,678.

SAMPLING METHODOLOGY AND RESULTS

On a statistical random basis, we examined 100 monthly maintenance claims invoiced by the Philadelphia County Department of Human Services (DHS) from a population of 33,154 active monthly claims invoiced to the Pennsylvania Department of Public Welfare (State agency) for a subsequent claim for FFP. The claims we sampled were drawn from the monthly invoices that were combined into quarterly Summary Invoices for the period October 1, 1988 to September 30, 1989.

We defined an error as the amount of FFP claimed for any invoiced claim which was ineligible for any of the five reasons identified in this report: (1) voluntary placement; (2) lacking required judicial determinations; (3) foster home ineligibility; (4) children ineligible for the Aid to Families With Dependent Children (AFDC) program; or (5) children who exceeded Title IV-E Foster Care age requirements.

Of the 100 claims sampled, we determined that 57 were ineligible for FFP for one or more of the aforementioned reasons. Using a standard scientific estimation process, we concluded that there is a 95 percent probability that from October 1, 1988 through September 30, 1989, DHS invoiced claims totaling at least \$11,849,930 which were not eligible for Federal reimbursement under the Title IV-E Foster Care program. The State agency subsequently claimed Federal reimbursement for these claims and was reimbursed \$6,786,678 in FFP. The point estimate and precision upon which this finding is based are \$15,257,710 +/- \$3,407,780 with a standard error of \$61.91.

We also performed subsidiary sample analyses to show the relative significance of the specific types of errors. These analyses were made using the same criteria as above except that an error was defined as the amount claimed for any claim that was ineligible for a single type of error. The results of the individual error type have been reported at the point estimate as follows:

<u>TYPE OF ERROR</u>	<u>NUMBER OF CLAIMS</u>	<u>FFP POINT ESTIMATE</u>
Voluntary Placement	41	\$5,277,685
Judicial Determinations	15	3,095,761
Other Errors*	7	823,622

*Includes Ineligible Foster Homes, Children Ineligible for AFDC, and Over Age Child

Because some claims were ineligible for more than one reason, the results of the subsidiary sample analyses are not mutually exclusive of each other and should not be added together. An accurate estimate of the total number of ineligible claims can be obtained from our combined analyses.



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Harry D. Sewell
Deputy Secretary for Administration

717 787-3423

Mr. G. A. Rafalko
Regional Inspector General
for Audit Services
Office of Inspector General
Department of Health and Human Services
P.O. 13716
Philadelphia, Pennsylvania 19101

Dear Mr. Rafalko:

Secretary White has asked me to respond to your draft report of May 16, 1991 entitled "REVIEW OF FOSTER CARE MAINTENANCE PAYMENTS CLAIMED UNDER TITLE IV-E OF THE SOCIAL SECURITY ACT BY PHILADELPHIA COUNTY, COMMONWEALTH OF PENNSYLVANIA FOR THE PERIOD OCTOBER 1, 1988 THROUGH SEPTEMBER 30, 1989." It is our belief that the findings contained in this report cannot be used as a basis for a disallowance of federal financial participation (FFP) to Pennsylvania.

When this audit was initiated, federal representatives were asked to provide a review guide for use by the Department of Public Welfare (DPW) in order to understand the procedures to be used during this engagement. DPW representatives were informed that the existing federal review guide published by the Administration for Children, Youth and Families (ACYF-IM-85-25), effective August 14, 1985, was the appropriate review guide (Attachment I). Based on this information, the sampling methodology employed during the Philadelphia review does not comply with the standards set forth in the review guide. The guide (page 5 and Attachment B) requires a sample of at least 330 claims. This review included only 100 claims.

The review guide also states that all claims are to be included in the universe from which a random sample is then drawn (Attachment B). Supplemental and retroactive claims were excluded from the universe prior to the sample being drawn; therefore, the sample is invalid.

Finally, DPW has submitted an expert opinion to the Department of Health and Human Services (DHHS) regarding previous placement maintenance reviews which are under appeal which challenges even the sampling methodology contained in ACYF-IM-85-25. Therefore, it is the position of DPW that this review cannot be used as a basis of disallowance of any FFP for the federal fiscal year in question.

With regard to the specific findings contained in the report, our responses are listed below:

INELIGIBLE MAINTENANCE COST CLAIMED FOR FFP

DEW disagrees with this finding. The claim of widespread noncompliance with federal regulations is one which is currently pending before the Departmental Appeals Board (DAB). DEW believes that costs claimed are eligible and has maintained that position in our appeals to the DAB for previous placement maintenance audits which raise the same issues.

VOLUNTARY PLACEMENTS

DPW has submitted a revision to its Title IV-E State Plan which was approved effective October 1, 1989. Therefore, all children who have entered placement in the past pursuant to a voluntary placement agreement will be eligible for placement maintenance benefits claimed after October 1, 1989.

It should be noted, however, that a policy interpretation on this issue (ACYF-PIQ-89-03) was issued July 14, 1989. Prior to that date, DHHS's reviewers had consistently approved the conversion of voluntary placements to court ordered placements provided that eligibility for placement maintenance benefits began on or after the date of the court order or judicial determination. This occurred without the voluntary placement provision being included in Pennsylvania's Title IV-E State Plan. The policy issuance occurred during the federal fiscal year which is the subject of this review. Therefore, it is a practical impossibility for DPW to have been aware that this issuance would be made and to take any corrective action prior to the federal fiscal year which is the subject of this audit.

JUDICIAL DETERMINATION

DPW has recently obtained a copy of a DAB decision from May 1991 which further specifies the requirements for submission of documentation regarding judicial determinations of reasonable efforts. There has been insufficient time to review this decision and to review all necessary court records to obtain additional documentation regarding these ten cases.

With regard to the disallowance related to the absence of the "contrary to the welfare" language, a recent issuance by the Administration for Children and Families (KY) states that such specific language is not required (ACYF-PIQ-91-03). It is DEW's position that the language of the existing court orders in these cases was sufficient to meet the standard set forth in this policy interpretation.

DPW has further confirmed with the Philadelphia Department of Human Services (DHS) that, at no time, did representatives of DHS agree with any determinations of noncompliance in this review.

FOSTER HOME ELIGIBILITY

DPW regulations and DHS legal counsel's opinion in previous placement maintenance reviews have confirmed that the existence of a foster home approval documents the approval of a home until the approving agency or DPW takes an adversary action to revoke the home's approval. Therefore, the absence of an annual re-evaluation does not, in itself, mean that a foster home is no longer approved. Further, throughout this review period, the foster family care agency, DHS, was appropriately approved by DPW.

AID TO FAMILIES WITH DEPENDENT CHILDREN (AFDC) ELIGIBILITY OF FOSTER CARE CHILDREN

The approved applications verifying AFDC eligibility for these cases are enclosed (Attachment II).

OVER AGE FOSTER CHILDREN

DPW acknowledges that these children were over age and, therefore, ineligible.

The Department's response to the recommendations found in the report are as follows:

RECOMMENDATION 1 AND 2

DEW conducts annual evaluations of DHS to assure compliance with all applicable regulations and performs fiscal reviews of the agency, as needed, to detect actions which do not comply with state and federal fiscal requirements. The reviews will continue and appropriate corrective action will be required of DHS for all areas of noncompliance.

RECOMMENDATION 3

DPW declines to adjust its placement maintenance claim until the outcome of our appeal before the DAB is known.

If you have any questions regarding our response, please contact Ms. Anne Shenberger at (215) 560-2249.

Sincerely,


Harry D. Sewell

Attachments