

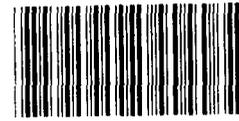
GAO

Report to the Congress

March 1986

BENEFIT OVERPAYMENTS

Recoveries Could Be Increased in the Food Stamp and AFDC Programs



129355



**Resources, Community, and
Economic Development Division**

B-205033

March 14, 1986

To the President of the Senate and the
Speaker of the House of Representatives

This report discusses the states' efforts to recover overpayments of benefits in the Food Stamp and Aid to Families with Dependent Children Programs. Overpayments in the two programs total about \$1.4 billion a year.

We are recommending several legislative changes and administrative actions to help increase overpayment recoveries. We believe that our recommended changes are consistent with the intent of both the Congress and the administration to emphasize program integrity and aggressive and effective program management at the federal and state levels.

We are sending copies of this report to the appropriate House and Senate committees; interested members of Congress; the Secretaries of Agriculture and Health and Human Services; the Director, Office of Management and Budget; and other interested parties.



Charles A. Bowsher
Comptroller General
of the United States

states must use recoupment for both participant- and agency-caused errors and give participants as little as 10 days to respond to the debt notification letter before collection begins.

Results in Brief

Recoupment has proven to be an effective tool for collecting overpayment recoveries from current food stamp and AFDC participants, but additional collections are possible. Some improvements can be achieved administratively; others require legislative action. Specific actions include:

- Expanding states' authority to use recoupment on claims caused by agency error from current food stamp recipients.
- Implementing procedures to expedite recoupment action, thereby contributing to faster and more efficient collections.
- Testing the use of additional techniques to collect overpayments from former participants.

Principal Findings

Expanding Use of Recoupment

Recoupment is an effective collection technique, but it cannot be used in the Food Stamp Program to collect overpayments caused by agency error. According to GAO's sample results in 11 state and local offices, an estimated 34 percent of claims against current participants in these offices were caused by agency error. Participants were not making any repayments on 31 percent of these claims. GAO estimates that if recoupment had been used to collect such claims established during the first 6 months of fiscal year 1984, recoveries could have increased by an average of 7 percent in these 11 offices. The Inspector General's January 1985 report, which included nationwide projections, estimated that recoupment could increase collections on such claims by \$1.4 million each month. (See pp. 20 to 24.)

Collecting More Timely and Efficiently

To maximize collections, actions need to be taken soon after the overpayment is identified because recipients, in many cases, leave the program before the claims are fully paid and do not repay after leaving the program. Starting the collection process sooner, therefore, would increase the amount collected while the recipient is in the program. While debt notification letters should allow participants a fair period

time to respond, the 30-day period which food stamp participants are given is unnecessarily lengthy and delays the start of collections. GAO found that using a 10-day period—as is allowed in the AFDC Program—for food stamp claims in the 11 offices it visited could have increased collections an estimated 8 percent in the first 6 months of fiscal year 1984.

Other changes which could increase collections include giving priority to processing current participants' claims and improving systems used to identify former participants who reenter the programs with outstanding claims. GAO estimates that these types of actions could have increased collections an additional 7 percent in the 11 offices reviewed. (See pp. 30 to 39.)

Collecting From Former Participants

States have difficulty collecting from former participants. For example, the Inspector General estimated that as of January 1984, claims against households no longer participating in the Food Stamp Program totaled \$135 million, and payments were not being made on \$85 million of these claims. One possible way of improving collections on these claims is to offset federal income tax refunds to recover delinquent overpayments from former AFDC and food stamp participants. Recent experience with using this collection technique by the Office of Child Support Enforcement indicates that the procedure may be cost-effective. For example, during the first 9 months of 1984, the Internal Revenue Service offset \$205 million against delinquent child support payments for 912,045 cases at a cost to the Service of about \$1 million. While this provides some indication of the potential of using federal tax intercepts, the cost-effectiveness of this technique, as well as the financial impact on former food stamp and AFDC participants, is largely unknown and should be more definitively determined. The Internal Revenue Service is conducting a 2-year test of the feasibility of federal tax refund offsets. (See pp. 48 to 56.)

Recommendations

To improve recovery of food stamp overpayments, the Congress should authorize states to use recoupment for food stamp overpayments caused by agency error and allow states to use a 10-day notification for food stamp claims. Other GAO recommendations to the Congress and the Secretaries of the Departments of Agriculture and Health and Human Services are aimed at improving the timeliness and effectiveness of states' recoveries. (See pp. 27, 28, and 43.)

**Matter for
Congressional
Consideration**

If the 2-year test proves that offsets are feasible, the Congress should consider authorizing the use of federal income tax refund offsets for both the Food Stamp and AFDC Programs on a trial basis to improve recoveries from former participants. (See p. 57.)

**Agencies' And States'
Comments**

The Departments of Agriculture and Health and Human Services generally concurred in, or agreed with the intent of, GAO's recommendations. In addition, the five states that sent GAO written comments generally agreed with the report's findings and recommendations. (See apps. III-V.)

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Abbreviations

AFDC	Aid to Families with Dependent Children
CEC	Community and Economic Development Division (GAO)
FNS	Food and Nutrition Service
GAO	General Accounting Office
HHS	Department of Health and Human Services
HRD	Human Resources Division (GAO)
IRS	Internal Revenue Service
OFA	Office of Family Assistance
OIG	Office of Inspector General
RCED	Resources, Community, and Economic Development Division (GAO)
USDA	U.S. Department of Agriculture

Introduction

The states are responsible for recovering benefit overpayments made to households participating in the Food Stamp and Aid to Families with Dependent Children (AFDC) Programs but historically have had difficulty doing so. In fiscal years 1980 through 1983, states collected less than 2 cents for every dollar of food stamp overpayments—which were estimated to be \$940 million in fiscal year 1983. When overpayments are discovered, claims are established against the participants to recover the overpaid benefit amount. For fiscal years 1980 through 1983, claims established for overpayments by the states ranged from about 6 to 11 percent of the estimated amounts overpaid, and collections represented from 17 to 19 percent of the established claims. Since 1983, progress has been made at giving higher priority to food stamp overpayment claims. For example, for fiscal year 1984, the Department of Agriculture (USDA) established \$109 million dollars in claims and collected \$33 million. USDA estimates that fiscal year 1985 collections may amount to \$43 million. However, as the fiscal year 1984 statistics indicate, 70 percent of the overpayment claims have still not been recovered.

USDA's Office of Inspector General (OIG) estimated that as of January 1984, unpaid food stamp claims amounted to about \$263 million. Although the AFDC Program experienced about \$500 million of overpayments to participants in fiscal year 1983, program officials said that they do not have the data needed to measure the extent of collection difficulties in that program. To increase collections, the Omnibus Budget Reconciliation Act of 1981 required states to recover all AFDC overpayments and participant-caused food stamp overpayments, by deducting an amount from the monthly benefits otherwise due the participants involved—a collection method called "recoupment." The act limited recoupment amounts to levels that would avoid imposing undue hardship on participants. The act required the Department of Health and Human Services (HHS) to implement this procedure by October 1981 and provided for it to be implemented through the regulatory process in the Food Stamp Program which USDA did in April 1983.

We made this review to examine how local collection offices were using recoupment and other collection methods and to identify specific changes to AFDC and Food Stamp Program laws and regulations that would help improve recoveries of overpayments.

Food Stamp and AFDC Program Administration

The Food Stamp and AFDC Programs, administered at the federal level by USDA's Food and Nutrition Service (FNS) and HHS' Office of Family Assistance (OFA), respectively, provide food and income assistance to the needy. The Food Stamp Program provides food coupons to eligible, low-income households to help them buy food and meet their nutritional needs. The AFDC Program provides cash assistance to eligible, low-income families with dependent children under age 19. Although the federal government is responsible for overall management of the two programs, states have wide latitude in program organization and operation. Generally, the same state agency operates both programs either directly or by delegating operation to local governments, usually counties.

The federal government finances all Food Stamp Program benefits and about half the costs of AFDC benefits. The federal government also pays part (usually 50 percent) of the states' administrative costs of both programs. In fiscal year 1984, federal program outlays were \$11.3 billion for the Food Stamp Program and \$7.5 billion for the AFDC Program. Participation was about 21 million and 10 million persons, respectively.

Federal legislation requires that eligibility criteria for the Food Stamp Program be uniform nationwide but allows the criteria for the AFDC Program to vary among the states. Both programs take into account household income and size, as well as liquid assets, in determining eligibility and benefit levels. Significant overpayments occur in both programs when ineligible persons are provided benefits and when eligible persons are provided more than they are entitled to. In this report, we will refer to both kinds of errors as overpayments.

Overpayments result primarily when

- a participating household intentionally (fraudulently) or unintentionally provides incorrect information or does not provide required information on which eligibility and benefit determinations are based (participant-caused errors) or
- the state or local administering agency miscalculates eligibility or benefits or does not correctly act on recipient-reported information (agency-caused errors).

Although states are required to establish claims for all overpayments they identify, they only identify a small portion of the overpayments that are estimated to occur. Overpayments estimates are based on statistical projections of erroneous payments found during the quality control

review process. Specific overpayment cases, on the other hand, are identified as a by-product of such routine program procedures as quality control reviews, periodic recertification, and wage matches.

Prior GAO Reports on Food Stamp and AFDC Overpayments

In the past, we have reported on problems with the overpayment collection processes in both the Food Stamp and AFDC Programs. In a 1977 report¹ on the prevention, identification, and collection of overpayments in the Food Stamp Program, we said that the federal government was losing over half a billion dollars annually because of overissued food stamp benefits, and we recommended a number of corrective actions. In a 1978 report² to the Secretary of Health, Education, and Welfare (now HHS), we noted similar losses in the AFDC Program but reported that the extent of overpayment recoveries could not be evaluated because the states were not required to maintain statistical data on collections. In 1980, we reported³ that HHS needed to improve its quality control system to identify the causes of errors in the AFDC Program in order to reduce erroneous benefit payments at the outset. In 1982, we reported⁴ that inadequate verification requirements and practices contributed to overpayments in needs-based programs, such as the AFDC and Food Stamp Programs, and recommended various actions to improve verification processes.

Finally, in a 1983 report,⁵ we pointed out that in fiscal years 1980 and 1981, the states had identified overpayments and established claims for only about 6 percent of the projected \$2 billion in food stamp benefits overissued during that period. We said that states had collected about \$20 million, or 1 percent, of the \$2 billion in estimated overissuances. The AFDC Program has lower overpayment rates than the Food Stamp Program; however, data on collections were not available to show the AFDC Program's success in establishing claims and recovering overpayments.

¹The Food Stamp Program—Overissued Benefits Not Recovered and Fraud Not Punished (CED-77-112, July 18, 1977).

²Letter report to the Secretary of Health, Education, and Welfare (HRD-78-117, May 25, 1978).

³Better Management Information Can Be Obtained From the Quality Control System Used in the Aid to Families with Dependent Children Program (HRD-80-80, July 18, 1980).

⁴Legislative and Administrative Changes to Improve Verification of Welfare Recipients' Income and Assets Could Save Hundreds of Millions (HRD-82-9, Jan. 14, 1982).

⁵Need for Greater Efforts to Recover Cost of Food Stamps Obtained Through Errors or Fraud (RCEI 83-40, Feb. 4, 1983).

Collection Provisions of Omnibus Act

Recovering food stamp and AFDC benefit overpayments made to current and former program participants has always been difficult. Prior to the 1981 Omnibus Act, the laws and regulations governing overpayment claims collection in the AFDC Program permitted states to use whatever collection methods, including recoupment, that were allowed under their respective state laws. For the Food Stamp Program, however, recoupment was not authorized, and states primarily used demand letters specifying the amount overpaid and requesting repayment.

The 1981 Omnibus Act requires recoupment to be used for all claims against current participants in the AFDC Program but only for claims resulting from current participant-caused errors in the Food Stamp Program. Although recoupment amounts are limited in both programs to prevent undue hardship on participants, the limits differ in each program. Food stamp benefits can be reduced by 10 percent of a household's monthly benefit or \$10, whichever is greater, while AFDC benefits can be reduced by no more than 10 percent of the benefit amount calculated by excluding all other family income. OFA regulations required all states to begin using recoupment in the AFDC Program by October 1981. In February 1983, FNS published final regulations which required recoupment be used in the Food Stamp Program for participant-caused overpayments starting in April 1983 and allowed recoupment to be used to recover agency-caused overpayments if participants consented.

The 1981 Omnibus Act permits states to use various methods to collect overpayment claims against former AFDC participants, as long as the methods are permissible under the respective state laws. States were provided the same authority for food stamp collections through 1982 amendments to the Food Stamp Act. Such collection methods include using private collection agencies, obtaining judgments in small claims court, and offsetting state tax refunds.

Objectives, Scope, and Methodology

Our overall objectives were to examine the states' use of recoupment and other collection methods in recovering overpayments and to determine whether additional changes to AFDC and Food Stamp Program laws and regulations would help to increase overpayment recoveries.

To achieve these objectives, we used a case study approach in 11 states to obtain an understanding of factors that could enhance or hinder efficient processing of recoupment claims and to develop detailed data on claims collection activities. The states were selected from those that had been using the new food stamp collection procedures long enough to

enable a study of 6 months of recoupment actions. Given the discretion accorded states in organizing and operating the Food Stamp and AFDC Programs, the 11 states were selected to represent (1) centralized (state) and decentralized (county or district) collection operations, (2) automated and manual collection records, and (3) different geographic areas of the nation. Table 1.1 shows the states that were selected.

Table 1.1: AFDC and Food Stamp Offices Reviewed by GAO

State	State or local collection unit	Automated or manual records
Alabama	county	manual
Arkansas	state	automated
Indiana	county	manual
Kentucky	county	manual
Nevada	district	automated
New Jersey	county	manual
North Carolina	county	manual
Ohio	county ^a	manual
Oklahoma	state	automated
Oregon	state	automated
Texas	state ^b	automated

^aWe visited two Ohio offices during the initial phase of our review. Since both Ohio offices operated under the same state procedures, we combined the data obtained from those offices for purposes of this report.

^bCollection operations are carried out in part by the state and in part by the local offices throughout the state.

When collections were conducted at the local government level, we reviewed collections operations at offices that were among the largest in their respective states. The local collection offices reviewed were Jefferson County (Birmingham), Alabama; Marion County (Indianapolis), Indiana; Jefferson County (Louisville), Kentucky; Las Vegas district, Nevada; Camden County (Camden), New Jersey; Mecklenburg County (Charlotte), North Carolina; and Lucas County (Toledo) and Montgomery County (Dayton), Ohio. The states, counties, and district selected for review do not provide a statistically representative sample of all jurisdictions that administer the AFDC and Food Stamp Programs. However, in fiscal year 1984, these states administered 17 percent of AFDC benefits and 29 percent of food stamp benefits, and the regulations we examined at these state offices are applicable nationwide.

In pursuing our review objectives through case studies, we assessed the operating policies, procedures, and practices followed in implementing

recoupment and taking other collection actions; reviewed the management controls established to assure timely and effective action in initiating recoupment; compared collection methods in the AFDC Program with those in the Food Stamp Program; and determined what methods were being used to collect claims against households no longer receiving benefits. We also reviewed the claims collection provisions in federal regulations and in state and local operating procedures; examined the legislative intent of laws governing the food stamp and AFDC collection provisions; and interviewed federal, state, and local program officials.

The core of our review at the 11 offices we visited was the examination of a total of 1,186 claims—582 recoupment claims (275 food stamp and 307 AFDC), and 604 claims not subject to recoupment (303 food stamp and 301 AFDC). The results of our examination of these claims are representative of the 11 locations we visited for the period covered by our review.

For each sample claim case, we gathered and analyzed data on the timing and sequence of processing steps and on the actual collections made. We determined (1) the effect that legislation, regulations, and individual offices' collection practices had on the efficiency and effectiveness of collection operations, (2) the amounts being collected through recoupment, cash payments, and other methods, (3) whether recoupment had been used where possible, and (4) the potential for increased use of recoupment if changes were made to existing recoupment authority.

No criteria were available as to how soon recoupment could have been started if collection actions had been taken in a more timely manner. Consequently, in calculating the amounts of lost or delayed recoveries, we established our own criteria based on the time we observed as being reasonable to complete all required collection steps. We established criteria for two situations encountered in the review: one in which a special unit was responsible for collections, and the other in which eligibility workers were responsible for collections.

Our sample results showed that at locations where claims were referred to a specialized collection unit, recoupment could have been started during the second month following the month of referral. Thus, in an office without a backlog, if a claim was referred for processing in July, the required recordkeeping and recipient notification could have been completed in July and August, and recoupment could have been started in September. We found that in offices that used eligibility workers to

conduct collection activities, recoupment could have been started during the third month following discovery of the overpayment. Thus, if eligibility workers discovered overpayments in June, they could have collected any necessary information, computed the overpayments, completed required recordkeeping and notification, and started recoupment in September. Officials in the states covered by our review agreed that the above criteria were reasonable.

For each sample case we reviewed, we determined the extent to which increased collections would have been possible during the 6-month period covered by our case review through more extensive or timely use of recoupment. The potential increase in recoupment collections during the period covered by our review was calculated from our sample cases and represented the difference between what was actually collected and what could have been collected, assuming recoupment had been started as soon as possible. Appendix II contains a detailed discussion of the precision of our sample estimates and explains how we computed the potential increased collections cited in this report.

The amounts presented in this report as potential increased collections from timelier use of recoupment during the period covered by our review represent the maximum additional collections that could have been made through greater use of recoupment. This magnitude of collections could have been realized when participants left the Food Stamp and AFDC Programs without fully paying off their claims. However, we could not tell how long the participants whose claims we reviewed would have remained in the programs. If all the participants stayed in the programs long enough to repay the entire amount of their overpayment claims, the benefit of earlier collections would have been limited to the amount of interest that might have been earned on those collections. This would be the minimum amount of benefits obtained from timelier collection actions.

For claims on which recoupment could not be used because the participants left the programs, we determined through our case studies what controls existed to start collection action should those individuals have reentered the programs. We also asked program officials whether and by what methods claims against former participants were being collected and the possibility of using other collection methods.

To provide a perspective on claims and collection activities, we obtained statistical data, including numbers and dollar amounts of claims established and dollar amounts collected, from reports provided to FNS and

OFA by the 11 offices reviewed. We also acquired automated claims data from all offices where such data were available. We analyzed the data to determine the original amount and unpaid balance of each claim type and, when such data were available, the amounts collected through each of the various collection methods. We did not verify the accuracy of these data.

We reviewed the USDA OIG and the GAO reports that deal with claims collection activities in the Food Stamp and AFDC Programs and in various other federal programs. During our review, USDA's OIG was making a review of food stamp claims collection activities at 42 local collection offices in 23 states. We coordinated our work with that office to prevent or minimize duplication of effort. For example, because the OIG review was addressing the status of food stamp collection activities and was making nationwide estimates on the amount of claims established and collections made through January 1984, we did not attempt to obtain such information on a nationwide basis in our review. Instead, we focused our review on how local collection offices were using collection methods such as recoupment to recover overpayment claims and to identify specific changes in their collection activities that would increase collections. We reviewed the OIG's report⁶ covering the results of its audit and included information from it in appropriate sections of this report. Because the OIG review work was still ongoing during our review, we were able to do only a limited analysis of its approach and methodology for projecting nationwide claims and collections data. On the basis of this review, the sampling methodology in the OIG report appears to be reasonable. We did not validate (1) how the OIG conducted its sample, (2) whether it actually sampled according to the plan, and (3) whether the assumptions made or final numbers published in the report were accurate.

We gathered information at the Office of Management and Budget and the Department of the Treasury's Internal Revenue Service (IRS) regarding the implementation of the Deficit Reduction Act provisions for claims collection through the offset of federal income tax refunds. Specifically, we obtained data on the effectiveness of this collection method for other programs and the implications of using it to collect AFDC and food stamp claims.

⁶Management of Food Stamp Claims, Audit Report No. 27648-2-At, Office of Inspector General-Audit, USDA, Jan. 1985.

The 6-month period covered in our case studies varied from office to office because some offices started using recoupment to recover food stamp claims later than other offices. We started our review in December 1983 at a collection office that started using recoupment at the earliest possible time, and we finished our case review work at the last office in July 1984. Our work was done in accordance with generally accepted government auditing standards.

Expanded Recoupment Authority and Other Changes Would Increase Collections

Recoupment has proven to be an effective tool for collecting benefit overpayments in the Food Stamp and AFDC Programs, but additional legislative and administrative changes would further increase the recovery of overpayments and improve consistency between the Food Stamp and AFDC Programs' procedures. For the Food Stamp Program, such improvements would require

- expanding states' authority to use recoupment to collect all claims against current participants, as is done in the AFDC Program, rather than limiting recoupment to participant-caused overpayments and
- eliminating the requirement that states offer overpaid participants subject to recoupment an option of repaying in installments.

For the AFDC Program, only the change regarding installment payments would apply. Although this option is not required by AFDC regulations, it was offered in four of the offices we visited. Some increased AFDC collections could result from greater use of recoupment instead of the installment option.

For the Food Stamp Program, these changes could have increased states' chances of recovering more of the estimated \$263 million of unpaid food stamp claims as of January 1984. We estimate that on claims established during the 6-month period at the 11 offices we visited, total food stamp collections could have increased 8 percent (\$116,000). The amount of additional collections at those offices would have ranged from \$162 to \$60,115—as much as 28 percent in one office.

Recoupment Improves Overpayment Recovery

States have significantly increased overpayment collections using the recoupment provisions required by the Omnibus Budget Reconciliation Act of 1981. In fiscal year 1984, nationwide recoupment collections amounted to \$10.1 million (31 percent) of the \$32.5 million total collections of food stamp overpayments and accounted for most of the \$13.9 million increase over the previous year's collections before implementation of the recoupment requirement. Recoupment also accounted for \$87.6 million of the \$131.2 million of AFDC collections in fiscal year 1984. Although data were not available to compare collections before and after states started using recoupment in the AFDC Program, state program officials we contacted said that recoupment had substantially increased collections.

Table 2.1 compares food stamp claims collections for the 11 states we visited.

Chapter 2
 Expanded Recoupment Authority and Other
 Changes Would Increase Collections

Table 2.1: Comparison of Food Stamp Claims^a Collections Before and After Recoupment Was Required

State	Total collections		Increase	Recoupment portion of total collections ^b
	Oct. 1982-Mar. 1983	Oct. 1983-Mar. 1984		
Alabama	\$77,567	\$428,043	\$350,476	\$264,321
Arkansas	37,607	99,280	61,673	40,736
Indiana	97,718	306,904	209,186	115,937
Kentucky	49,919	145,819	95,900	79,455
Nevada	24,892	31,721	6,829	20,243 ^c
New Jersey	227,587	546,674	319,087	196,205
North Carolina	320,990	304,796	(16,194)	158,447 ^c
Ohio	291,131	348,588	57,457	49,516
Oklahoma	34,351	56,889	22,538	18,949
Oregon	46,007	228,831	182,824	78,108
Texas	423,498	805,951	382,453	623,330
Total	\$1,631,267	\$3,303,496	\$1,672,229	\$1,645,247

^aTable includes both participant-error and agency-error claims.

^bRefers to Oct. 1983-Mar. 1984 collections.

^cThe amount of recoupment was greater than the amount of increase because some participants previously repaying through installment payments were repaying through recoupment.

The 1981 Omnibus Act requires states to use recoupment to recover overpayment claims in the Food Stamp Program, except those arising from agency errors. When recoupment is used to collect claims in either the Food Stamp or AFDC Program, monthly benefit reductions are limited so as not to impose undue hardship on participants. (See ch. 1 for an explanation of recoupment limits.) Prior to the 1981 act, FNS was allowed to collect overpayment claims but legislatively was prohibited from using recoupment to do so. On February 15, 1983, FNS issued final regulations requiring states to use recoupment for participant-error claims by April 1983 and permitting them to use recoupment to recover agency-error overpayments if participants consented. An FNS headquarters official told us that issuance of these regulations was delayed because they were part of a lengthy docket that included various other regulations arising from the Omnibus Act and other legislation. Although all states were to start using recoupment in April 1983, some did not do so until up to 6 months later because of various implementation problems. All the states we visited had their recoupment procedures in operation by the beginning of fiscal year 1984.

States have always been permitted to use recoupment to collect AFDC overpayment claims, but in 4 of the 11 offices we visited, recoupment had not been used before October 1981, when states were required to begin using it. We were unable to analyze the impact of recoupment in the AFDC Program through a before-and-after comparison because the states were not required to collect and report recoupment collection data until fiscal year 1984. However, AFDC officials in the states we visited told us that their overpayment collections increased after they began using recoupment.

AFDC and Food Stamp Program collection officials in the 11 states we visited said that recoupment has proven to be an effective method for collecting overpayments. They noted that recoupment is less expensive and requires less monitoring and accounting than other methods, especially in states that have recoupment capabilities built into their automated benefit issuance systems.

Recoupment Should Be Required for Overpayments Caused by Agency Errors

Collections of food stamp claims could be significantly increased if food stamp legislation and regulations were made consistent with those for the AFDC Program which require the use of recoupment for all overpayments—those resulting from agency errors as well as those caused by participants—if recipients do not voluntarily repay claims. Agency-error claims are a substantial part of total food stamp claims, but overpaid households were not making installment payments on about one-third of those claims in the offices we visited, even though the households were still receiving program benefits.

The AFDC and Food Stamp Programs' laws and regulations differ on the use of recoupment. In the AFDC Program, recoupment is required for all overpayment claims, while in the Food Stamp Program, the use of recoupment is not authorized for overpayment claims arising from agency errors unless the participant agrees to it. Thus, if a food stamp participant who was overpaid by agency error elects to repay through installments but fails to make the payments, food stamp officials cannot force repayment through recoupment as they can if the error was participant-caused. The agency-error participant must agree to the recoupment method.

In our 1983 report,¹ we said that a study of fiscal year 1981 data in eight states showed that 30 percent of incorrect food stamp issuances

¹See footnote 5, ch. 1.

were caused by agency errors. Excluding claims involving suspected fraud, the eight states reported establishing about \$68 million of participant-error claims (79 percent) and \$18 million of agency-error claims (21 percent) in fiscal year 1984.

The states we visited were having difficulty collecting on agency-error claims. On the basis of our sample results, we estimate that of a total of 3,312 claims against current participants, 1,129 (34 percent) claims resulted from agency errors. We further estimate that the households involved agreed to recoupment on 703 (62 percent) of the claims. Households were making installment payments on 78 (7 percent) others. However, on an estimated 348 (31 percent) of the 1,129 agency-error claims, collections were lost or deferred because participants were not making any repayments, and since these participants had not consented to repay through recoupment, states could not use this procedure to collect these overpayments.

We estimate that if recoupment had been used to collect all agency-error claims established during the first 6 months of fiscal year 1984, recoveries could have been increased by an average of 7 percent in these offices, or a total increase of \$92,755. At 9 of the 11 offices we visited, recoveries could have been increased by as much as 18 percent—ranging from \$118 at one of the smaller offices to \$45,410 at one of the larger offices.

The USDA OIG's January 1985 report² also cited the advantages of using recoupment to collect food stamp agency-error claims. The OIG estimated that as of January 1984, agency-error claims nationwide totaled about \$55 million. The OIG also estimated that of the agency-error claims, 143,771, involving over \$25 million, were against households that were still participating in the Food Stamp Program and that 119,520 of those were not repaying the overpayments. The report stated that recoupment would increase collections on those claims by \$1.4 million each month. The OIG recommended that FNS propose legislation to require states to use recoupment to recover all agency-error overpayments.

AFDC and Food Stamp Program officials in the 11 states in our study told us that they would prefer to use the same collection methods for agency-error claims in both the AFDC and Food Stamp Programs. According to these officials, they do not perceive any difference between food stamp

²See footnote 6, ch. 1.

and AFDC agency-error claims that would necessitate a difference in regulations governing collections.

USDA supports the concept of using recoupment for agency-error claims. OFA headquarters officials said they perceive no difference between food stamp and AFDC claims or participants that would warrant the inconsistency in the use of recoupment.

In our February 4, 1983, report³ and in our subsequent testimonies, we recommended that the Congress amend the Food Stamp Act to conform with AFDC legislation requiring the use of recoupment for overpayment claims regardless of the reason for the overpayment. At the time that recommendation was made, the states had not implemented the recoupment provisions for food stamp claims; therefore, the extent that recipients would voluntarily use recoupment to repay overpayments could not be determined. However, data collected during this review showed that overpayments caused by agency error continue to be significant—\$18 million in fiscal year 1984—and states were not able to collect on a large percentage of these claims—about 31 percent of the claims at the locations we reviewed—because the recipients did not agree to recoupment and did not repay through other means.

Both the Senate-passed version of the Food Security Act of 1985 (H.R. 2100, as amended) and the Senate-passed version of the Consolidated Omnibus Budget Reconciliation Act of 1985 (H.R. 3128, as amended) would have permitted states to use recoupment to collect agency-caused overpayments. However, this provision in both bills was deleted in conference. On the basis of the states' experience in using recoupment for collecting participant-caused overpayments and the problems states are experiencing in collecting agency-error claims, we continue to believe that our recommendation—using recoupment for all types of food stamp claims—has merit.

States Should Not Be Required to Offer Food Stamp Participants the Option of Paying Claims in Installments

Food Stamp Program regulations require states to offer participants three options for repaying benefit overpayments: (1) a lump-sum payment, (2) installment payments, or (3) recoupment, if the household is still receiving program benefits. For the AFDC Program, neither law nor regulations require states to offer participants such repayment options; however, four offices we visited offered the installment option to participants with AFDC overpayment claims.

³See footnote 5, ch. 1.

When the installment option is given, the collection office sends the recipient a notice that states the overpayment amount and informs the recipient of the options of repaying the claim in full or repaying through recoupment or installments. If the state determines that collection action through any of these payment methods would cause undue hardship to the recipient, collections can be suspended or repayment amounts reduced. If the recipient elects to repay in installments, the program office continues to send the full benefits to the recipient each month and the recipient sends payments to the collection office. In addition, the collection office maintains a control file to determine whether monthly payments were received and takes action to start recoupment when the recipient does not pay (except for food stamp agency-error claims).

We estimate that for the 3,312 food stamp claims in our sampled months at the 11 offices we visited, current participants who were notified of benefit overpayments and requested to repay the amounts owed elected to make installment payments on 289 participant-error claims. In 134 (46 percent) of the 289 cases, the participant did not make the agreed-upon payments, and collection staffs subsequently took steps to initiate recoupment, including giving the households another 30 days to respond to the recoupment notice as required by regulations. Recoupment on those claims was delayed 2 months or more and, in 15 of the 134 cases (11 percent), could not be started at all because the households had left the program in the interim. Collections totaling an estimated \$3,377 were lost or deferred on the 134 claims because of the delays in starting recoupment.

Five of the 11 offices also offered recipients the option of using installment payments for AFDC claims. AFDC regulations do not require collection offices to give recipients the option of repaying in installments, but they do allow the collection offices to refrain from using recoupment if the recipient is repaying the claim. Recipients elected to repay in installments on 17 of 177 AFDC claims in our sampled months that could have been collected through recoupment. Recipients stopped payments on nine of these cases, and as a result collections of \$710 were lost or deferred because participants did not make agreed-upon installment payments during the period we reviewed. This amount of potential increased collections represents the difference between the amounts actually paid on the claims through installments and the amounts that could have been recovered through recoupment.

Generally, state program officials we interviewed said that the installment option creates additional administrative steps and delays, or precludes full recovery. When installments are used, states need to establish an accounting and tracking process to monitor installment payments. If the participant does not make the agreed-upon payments, the collection office needs to recognize the missed payment(s) and, before starting recoupment, notify the participant, as required by food stamp regulations, that the payment was missed and that recoupment would be started. Officials in one state said that, in some cases, the installment option could allow faster recovery if the installment payments were greater than the allowed 10-percent benefit reduction but that, otherwise, they would prefer to use recoupment. For the cases we reviewed, we found that installment payments were usually not greater than the benefit reduction that could be made under recoupment.

FNS headquarters officials said that recoupment may be a more effective method of collecting claims against current participants than installment payments. However, they said that the Food Stamp Act requires that participants who obtain overpayments through intentional program violations be given the option of repaying through installments. They also believed that participants who received overpayments as a result of unintentional errors should be allowed the same repayment option. AFDC officials said that states are not required to offer the installment option on AFDC overpayments and that they believe recoupment is a more efficient method of recovering overpayments.

We believe that recoupment should be promptly initiated for all current program participants who had previously been overissued benefits. State and local collection offices should be allowed to use installment payments to supplement recoupment, but participants should not be given the opportunity to elect installment payments instead of recoupments. Of course, any participant who elects to repay an overissuance in a lump sum should be allowed to do so.

Conclusions

Recoupment has resulted in significant increases in overpayment collections in both the Food Stamp and AFDC Programs. However, states are restricted from using recoupment for certain types of overpayment claims, which adversely affects their ability to further increase overpayment collections. In the Food Stamp Program, states are not able to use recoupment for claims caused by agency error, unless the participant agrees to its use. Consequently, states are experiencing difficulties collecting these types of food stamp claims. In addition, states are

required in the Food Stamp Program, and some states have elected in the AFDC Program, to offer participants the option of repaying overpayment claims in installments when participants are on program rolls and receiving benefits. When recipients fail to make installment payments, as is often the case, collections are delayed or lost, and collection offices incur the additional administrative costs of initiating collection actions again.

We believe that overpayments should be recovered by using the most expeditious method possible, but without imposing an undue hardship on program participants. Accordingly, recoupment should be used to collect all types of food stamp and AFDC overpayment claims from current recipients. The installment option should be allowed only when it will supplement recoupment and thereby result in faster recovery of the overpayment. Finally, program participants should always be allowed to make lump sum repayments of overpayments.

Recommendations to the Congress

We recommend that to improve the effectiveness of states' collection operations, the Congress amend the Food Stamp Act of 1977 to authorize states to pursue mandatory recoupment on overpayments that were caused by agency errors, as is done in the AFDC Program. This can be done by amending the first sentence of section 13(b)(2)(A) (7 U.S.C. 2022(b)(2)(A)) by striking out "and claims arising from an error of the State agency."

We recommend that to further improve the efficiency and results of collection operations, the Congress amend the Food Stamp Act of 1977 to eliminate the requirement that states offer installment payments as an option in recovering overpayments from participants. This can be done by amending the first sentence of section 13(b)(1)(A) (7 U.S.C. 2022(b)(1)(A)) by striking out "in accordance with a schedule determined by the Secretary." Such a change would not preclude states from allowing lump sum repayments or using installments when a household is no longer participating in the program or supplementing recoupment with any additional payments the participant might wish to make.

Recommendation to the Secretary of Health and Human Services

We recommend that the Secretary of Health and Human Services direct the Administrator of the Office of Family Assistance to specify that recoupment be used to recover overpayments from all participants receiving program benefits. This recommendation would not preclude installment payments being used in the AFDC Program to supplement recoupment or lump sum payments to collect overpayment claims.

Agencies' And States' Comments and Our Evaluation

In commenting on a draft of this report, USDA, HHS, and the five states that commented (Indiana, New Jersey, Texas, Oregon, and Nevada) said that they generally agreed with the above recommendations. (See apps. III-V.)

Regarding our recommendation that the Congress amend the Food Stamp Act of 1977 to authorize states to pursue mandatory recoupment on overpayments that were caused by agency error, USDA said it agrees that this would enhance states' efforts to collect these types of recipient claims. It said that such a provision was included in the Senate's Reconciliation Bill and that the Department supported the provision during hearings before the Senate Agriculture Committee. USDA also said that states should be allowed to decide when recoupment should be used, which would be consistent with our recommendation.

The Indiana, New Jersey, Texas, and Nevada state agencies strongly agreed with this recommendation; however, the Oregon Department of Human Resources said that it believed that recovery on agency-error cases should remain voluntary for the client. The Oregon agency said that, currently, states retain no monies recovered on agency-error cases unlike recoveries on inadvertent household-error cases, where states retain 25 percent of the recoveries, and intentional program-violation cases, where states retain 50 percent. The Oregon agency also said that if recovery on agency-error cases is to be mandatory, states should be allowed a 25-percent retention rate equal to that for inadvertent household-error cases. We continue to believe that states should be authorized to pursue mandatory recoupment on overpayments that were caused by agency error. Benefit overpayments, regardless of whether they were inadvertently caused by households or by the agency, should be recovered. As we state in this chapter, recoupment would be an effective way to recover these overpayments. However, we and USDA have both taken the position in testimonies before the Congress that states should not be allowed to retain a portion of recovered overpayments caused by agency error.

The five states that commented supported limiting the use of installment payments as an option in recovering overpayments from participants. USDA said that it supports the most expedient, effective recovery practical and that toward this end, it supported the recommendation. It added that our recommendation that the Congress eliminate the requirement that states offer installment payments as an option in recovering food stamp overpayments would be closely examined for inclusion with USDA's own legislative proposals in 1986. HHS said that the intent of our recommendation had merit and that it would consider clarifying through regulation that if a recipient opts to repay all or part of the overpayment immediately, the state will accept that payment and establish a recoupment schedule for any balance due.

More Timely and Efficient Collection Action Could Increase Overpayment Collections

State program officials told us that the use of recoupment had resulted in more successful and efficient overpayment collections. We believe that additional changes in state collection procedures could further help to maximize the value of recoupment and other collection techniques and improve overall collection results. Such changes include

- placing priority on processing claims involving households currently receiving benefits,
- shortening and standardizing the time allowed for recipients to respond to debt notification letters,
- improving systems used to identify former participants who reenter the programs with outstanding claims so that collection action can be started to recover the overpayments, and
- initiating collection action on food stamp claims against participants awaiting administrative disqualification hearings.

We estimate that by emphasizing claims involving participating households, shortening and standardizing the debt notification period, and collecting from those awaiting disqualification hearings, food stamp overpayment collections on claims established during the 6 months ended March 31, 1984, in the 11 offices we visited could have been increased by a total of \$201,860, ranging from \$132 at one office to \$79,987 at another. At the individual offices, the collection increases would have ranged up to 51 percent, with an overall average of 14.5 percent.¹ Claims and collections data needed to make similar estimates for the AFDC Program were not readily available.

Regarding the identification of former participants who reenter the program with outstanding claims, we did not make any estimate because of the small number of such cases in our sample. However, USDA's OIG estimated that an additional \$2.9 million could be collected monthly if recoupment were used to recover overpayments from food stamp participants with outstanding claims.

Claims Against Current Participants Should Be Processed First

A significant factor limiting the amount of collections made on the food stamp and AFDC claims we reviewed was that states were not giving priority to initiating collection action, particularly recoupment, on overpayment claims involving current participants. Timely initiation of collection action is important because collecting overpayments from

¹See app. II for a further discussion of the precision and computation of these estimates.

households no longer participating in the programs is especially difficult, as discussed in chapter 4. Prompt initiation of collection action maximizes the period over which collections can be made. Of the 11 offices we visited, 8 had backlogs of claims awaiting processing but were not giving priority to starting collection action on claims against current participants. We found that, had priority been given to processing such claims, collections in these offices could have increased significantly.

Collection officials at the backlogged offices said that because they generally receive more claims than their staffs can handle right away, claims backlogs result. In this review, we considered an office to have a backlog if it had more claims awaiting collection action than could be processed in a month. Table 3.1 shows the number of claims backlogged and the months needed to process the backlogged claims, as estimated by the eight offices.

Table 3.1: AFDC and Food Stamp Programs' Claims Backlogged in Sample Locations

Collection office	Claims backlog		Number of months of backlog
	AFDC	Food Stamp	
Alabama/Jefferson	0	11,000	55
Arkansas	2,100	900	5
Indiana/Marion	0	(a)	(a)
Kentucky/Jefferson	0	100	4
New Jersey/Camden	0	1,200	6
North Carolina/Mecklenburg	---2,000 ^b ---		20
Ohio/Montgomery	---790 ^b ---		5
Oklahoma	700	1,100	3

^aMarion County, Indiana, had a backlog but did not have any data showing its size and could not estimate it because claims are processed through several groups, and the office did not record the number of cases in the total processing cycle.

^bData were not readily available in the Mecklenburg and Montgomery offices that would show a breakout of the backlog between the Food Stamp and AFDC Programs.

With one exception, these offices were processing backlogged claims on a first-in/first-out basis.² This means that in the Camden office, for example, a claim would generally not be acted upon until about 6 months from the time it was received.

The exception involves the Jefferson County office in Alabama. In September 1983, it began operating under a policy of first processing the

²This discussion applies to the procedures used for our sample cases. Arkansas subsequently changed its procedures, as noted later in this chapter.

most recently identified food stamp claims, and then processing older claims as time permitted. In addition, the office added staff to its collection operation to ensure that it could process all new claims as they were received, as well as some of the backlogged claims. The sample claims we reviewed were processed using this procedure, and we did not find any delays in collection actions on those claims. (We did not determine the number of older unprocessed claims that involved current participants.) Although this procedure did not specifically give priority to claims against current participants, collection officials said that their procedure could increase collections because the most recent claims are the most likely to involve current participants. While this may be true in most cases, such an approach does not specifically assure that claims against current participants will be processed first.

To determine the effects of processing the oldest claims first in backlogged offices, we estimated the number of participants leaving the program before recoupment had totally recovered the overpayments. On the basis of the recoupment claims that we reviewed, we estimate that participants actually left the programs without fully repaying the overpayments in 226 AFDC cases (21 percent of all recoupment cases at the offices we visited) and 669 food stamp cases (20 percent of the recoupment cases) during the 6-month period covered by our review.

Although specific data on the length of time participants stayed on program rolls were not available in the offices, the Texas and Nevada state offices had data that enabled us to determine how long participants generally stayed in the programs in those states at any one time. Our analysis of data on food stamp participants in Nevada and AFDC participants in Texas showed that about two-thirds of the participants received benefits for less than a year. In contrast, our analysis of sample cases in the 11 offices we visited showed that an average of 18 months of recoupment would have been required to fully recover an overpayment. Because indications are that it generally takes longer to complete the recoupment process than the average length of time participants receive benefits, the earlier recoupment is started, the greater the potential for recovering a larger amount of overpayments, especially in offices that have backlogged claims. Since an office with a 3-month backlog, for example, would generally take 3 months longer to start recoupment or other collection action on a claim than an office without a backlog, an additional delay or loss of collections would result because there would be no recoveries during those 3 months.

The backlogs at the collection offices we visited had an effect on the timeliness and effectiveness of using recoupment on the sample claims that we reviewed.³ We estimate that priority processing of food stamp and AFDC claims established against current participants in the month(s) sampled could have increased food stamp collections by \$8,289 and AFDC collections by \$10,267 over a 6-month period. Also, we estimate that for claims established against current participants during the first 6 months of fiscal year 1984, priority processing could have increased food stamp collections by as much as 36 percent and averaged 15 percent in those offices with backlogs. At the seven locations with increases, the increases ranged from \$921 to \$19,613. (See app. II for a further discussion of the computation and precision of these estimates.) We could not estimate the potential increases in AFDC collections on claims established against current participants during the first 6 months of fiscal year 1984 because the detailed claims and collections data needed to compute such estimates were not readily available.

AFDC and Food Stamp Program officials in the offices we visited that had claims backlogs told us that delays in processing claims adversely affected their ability to collect overpayments. To alleviate this problem, the Arkansas collection office subsequently started processing the most recently identified claims first—the same approach used by Jefferson County, Alabama (as noted earlier). Officials at the other offices with backlogs said that they would consider changing their priorities and start processing claims against current participants first or adding staff to reduce backlogged cases. However, such action was not taken during the time of our review at those offices.

The adverse impact of claims backlogs on collections also was recognized in the USDA OIG's January 1985 report on food stamp claims collection activities.⁴ The OIG estimated a nationwide backlog of 431,850 potential claims awaiting processing, involving \$208 million, of which \$118 million involved current participants. The report estimated that timely processing of these claims could increase collections by \$1.3 million a month for participant-error claims and \$236,280 a month for agency-error claims. The report included recommendations that FNS (1) encourage states to be aggressive and timely in establishing and collecting claims and (2) revise regulations to impose a reasonable time limit for processing claims.

³These sample claims were drawn from those established during selected months rather than drawing a sample of backlogged claims (see app. II for a description of our sampling approach).

⁴See footnote 6, ch. 1.

States are allowed to set their own priorities in managing the claims caseload because neither food stamp nor AFDC regulations require states to give priority to processing claims against current participants. Food stamp regulations do not specify any criteria for timely processing of claims. AFDC regulations require prompt collection but do not have criteria for prioritizing claims processing. In addition, rather than specifying a length of time for starting claims processing, AFDC regulations require only that the states take action to collect claims by the end of the quarter following the quarter in which the overpayment is discovered. Consequently, in some cases, states would be permitted to take as long as 5 months to initiate collection action, which could result in lost or deferred recovery of AFDC overpayments.

Collection officials in Oregon noted that the AFDC claims processing time frame was unnecessarily lengthy and established more stringent criteria for starting collection action. Oregon requires that AFDC overpayment amounts be computed within 30 workdays after an overpayment is discovered and that collection action be taken within 5 workdays after the overpayment amount is computed. Although Oregon's criteria apply only to AFDC claims, program officials expressed the belief that the criteria also affect food stamp claims processing because they emphasize the importance of timeliness. Both food stamp and AFDC officials in Oregon told us that the criteria appeared as reasonable for application for food stamp claims as for AFDC claims. However, these officials said that they did not believe that they needed a similar specific requirement in the Food Stamp Program because their food stamp claims were already being processed in a timely manner.

OFA headquarters officials responsible for collection policy said that the criteria in AFDC regulations were an attempt to define the term "promptly," which is included in section 402(a)(22) of the Social Security Act, as amended (42 U.S.C. 602 (a)(22)), but that the time period specified was not based on a study of what would be a reasonable amount of time to act on claims. They said that they had not revised the criteria because they were not aware that the criteria needed to be revised and did not have sufficient information upon which to base new criteria. However, OFA headquarters officials recognized that in order to take full advantage of collecting through recoupment, collection offices that have backlogs should give priority to processing claims against current participants.

FNS headquarters officials said that timely processing of food stamp claims against current participants is important in order to maximize

overpayment recoveries and take full advantage of the recoupment collection method. In response to the January 1985 OIG report that recommended that a time limit be established on processing claims, the FNS Deputy Administrator for Family Nutrition Programs said that FNS was considering establishing such criteria to use as state performance guidelines. After a year's experience with such guidelines, FNS would determine if a regulatory change is necessary.

Time Allowed for Responding to Debt Notification Letters Should Be Shortened

Collections of overpayment claims in the Food Stamp Program and, in the case of some states, in the AFDC Program could be increased by shortening and standardizing the time allowed for participants to respond to debt notification letters. In both the AFDC and Food Stamp Programs, state agencies are required to send letters to participants notifying them of overpayments that occur and requesting repayment. For both programs, the recipients are to (1) decide if they will repay from their own resources or use recoupment and (2) return the notice showing their choice of repayment methods. If the participants do not respond to such notification, the state agency can initiate recoupment action as authorized by law and regulations. (In the Food Stamp Program, this would involve only participant-caused overpayment claims.)

Food Stamp Program regulations allow participants up to 30 days to respond to debt notification letters before starting collection action, and AFDC regulations require that states give participants at least 10-days' notice before starting collection action. The 30-day food stamp response period is based on a requirement in the Food Stamp Act, which specifies that participants overpaid because of their intentional program violations be given 30 days to respond to debt notification letters. However, the AFDC response period is based on a requirement that recipients be given timely notice of changes in benefit payments, and timely is defined as being at least 10 days before the effective date of the action. Our review of the legislative history of the food stamp provisions did not disclose any explanations for why the food stamp response period was 30 days. For the 11 states included in our review, we analyzed the extent to which these notification differences affected the time it took collection offices to initiate collection action.

In eight states, participants were allowed up to 30 days to respond to debt notification letters for food stamp claims and only 10 days for AFDC claims. In Arkansas, Ohio, and Texas, a 30-day response time was allowed for both AFDC and food stamp claims. In offices that allowed recipients 10 days to respond, recoupment was starting an average of a

month earlier than in those allowing a 30-day response period. By starting recoupment a month earlier, these offices generally recouped more of the overpayments before recipients left the programs.

An analysis of our sample data shows that 40 percent of food stamp and 64 percent of AFDC participants did not respond to debt notification letters at all. Recipients generally responded if they elected to repay claims in lump sum or through installments, but did not respond if they elected to use recoupment because they were told that recoupment would automatically begin after the end of the response period. However, our analysis shows that of those participants who responded, 69 percent of food stamp participants and 84 percent of AFDC participants responded to the notification letters within 10 days. Our analysis also shows that by starting recoupment after a 10-day response period rather than a 30-day period, an average of 1 additional month of recoupment collections could have been made on each claim. We estimate that by using a 10-day response period for food stamp claims in the 11 offices, overpayment recoveries for recoupment cases could have been increased by 8 percent, ranging from 1 to 18 percent, as shown in table 3.2.

Table 3.2: Estimated Increase in Collections Using a 10-Day Notification for Food Stamp Claims Established During the 6 Months Ended March 1984

Location	Estimated increase in collections	Percentage increase
Alabama/Jefferson	\$898	4
Arkansas	5,622	6
Indiana/Marion	4,837	18
Kentucky/Jefferson	710	15
Nevada/Las Vegas	132	1
New Jersey/Camden	2,370	3
North Carolina/ Mecklenburg	256	2
Ohio/Lucas & Montgomery	3,396	9
Oklahoma	8,160	14
Oregon	31,897	14
Texas	48,006	6
Total	\$106,284	8

We were unable to project similar potential increases in AFDC collections on claims established during the 6 months in the three offices that used a 30-day notification because sufficient information was not readily available on the number of claims established and collections made each month of the review period.

State and local Food Stamp and AFDC Program officials said that a 10-day response time would be reasonable and adequate for both programs and that food stamp regulations should be changed to conform with AFDC regulations on response time. They said that this would improve the timeliness of recoveries and the administrative efficiency of recovery actions and would eliminate inconsistency in response time allowed program participants.

FNS and OFA headquarters officials also said that a 10-day response period would be reasonable. However, FNS officials said that the 30-day period for food stamp claims is based on a provision in the Food Stamp Act that requires that participants overpaid because of their intentional program violations be given 30 days to respond to debt notification letters. They said that they believed that other overpaid participants should be given as much time to respond to notification letters as those who intentionally violate program rules.

On the basis of the use of a 10-day response time for AFDC claims, our findings on actual participant response times, and the increased collections possible using a shorter response period, we believe that a 10-day response period for all claims should be established.

Debt Check Systems for Former Participants Reentering the Programs Should Be Improved

Collections of overpayments could be increased if Food Stamp and AFDC Program offices would improve their systems for identifying former participants with outstanding claims who reenter the programs. In most of the offices we visited, program officials were relying on manual systems to identify these individuals. In some instances, the processes used were not effective in identifying such individuals nor in ensuring that collection action was started at the earliest possible time after reentering either of the programs.

Participants owing on overpayment claims often leave the Food Stamp and AFDC Programs before claims against them are collected. If such former participants reenter the programs, collection action, including recoupment, on their unpaid claims should be started as soon as possible. The 11 offices we visited were using various methods for identifying former participants with outstanding claims who reentered the programs. Three of the 11 offices—Oklahoma, Oregon, and Nevada—were using automated benefit issuance systems that started recoupment whenever a participant with an outstanding claim was issued benefits. In these offices, program officials entered claim amounts in participants' benefit records when participant-caused claims were first established.

Subsequently, whenever benefits were issued to a participant with an outstanding claim, the issuance system automatically computed the recoupment amount, adjusted current benefits, and adjusted the outstanding claim balance.

The other eight offices did not have this capability in their automated issuance systems and had to rely on a manual process to identify individuals with outstanding claims who return to program rolls. In the Jefferson County, Kentucky, office, collection officials received a list of new participants each month, checked it against a list of outstanding claims, and started recoupment on those who had outstanding claims. In Arkansas, the county program offices had to make inquiries through the automated claims file to determine if applicants had outstanding claims. The other six offices used a "casefile-flagging" system to identify new participants with outstanding claims. This process generally involved placing a form in a participant's casefile that noted that an outstanding claim exists. When the individual reenters the program, the eligibility worker checks the casefile to determine if an outstanding claim exists and starts recoupment with the first monthly benefit.

We reviewed a sample of claims in the eight offices that used a manual system to flag former participants with outstanding claims who reenter the program and found that such applicants were not always identified as having outstanding claims. As a result, in four of the eight offices, recoupment was not started for some participants with outstanding claims when they started receiving benefits again. On the basis of our analysis of 25 cases, we project that the operation of the manual systems in these four offices did not identify about 7 of every 10 participants who owed on previous claims.

The USDA OIG's January 1985 report⁵ also cited weaknesses in collection offices' systems to identify food stamp participants with previous claims outstanding. The report stated that 22 of 42 offices OIG visited did not have systems to identify households with outstanding claims. In addition, some of the other offices had systems in place but relied on manual flags that did not always work properly. The OIG estimated that about 265,000 households with outstanding claims were receiving food stamps but were not repaying amounts owed or having their allotments reduced. The report said that an additional \$2.9 million a month could be collected if recoupment were used to recover the \$59 million in overpayments to such households. The OIG recommended that states flag

⁵See footnote 6, ch. 1.

manual systems or program automated certification and issuance information systems to intercept households with outstanding claims at any certification point within the respective state. FNS said that program regulations required systems to identify such situations but that more vigorous enforcement of the requirement was needed.

In a June 14, 1985, memorandum, FNS' Deputy Administrator for Family Nutrition Programs informed all regional directors that some localities were not identifying households with outstanding claims at the time of certification so that collections can be pursued. The memorandum informed the regional directors that these localities were out of compliance with FNS policy and that all states that did not have a system in place to identify applicants with outstanding claims should immediately begin developing one. In addition, the memorandum stated that in fiscal year 1986, FNS planned to revise its claims regulations to make the requirements for such a system explicit.

Collection Action Should Be Started on Claims Against Participants Awaiting Administrative Disqualification Hearings

States can recover more food stamp overpayments if they begin collection action on claims against participants scheduled for administrative disqualification hearings, as some states now do, rather than waiting until after the hearings are held. States have two choices—criminal prosecution in court or disqualification hearings administered by the Food Stamp Program office—for adjudicating food stamp cases in which participants have received overpayments that state program officials suspect were caused by the participants' intentionally providing incorrect information on eligibility and benefit determinations. (The AFDC Program does not use a similar administrative hearing process.) Regardless of the results of either procedure, and since an overpayment is known to have occurred, collection action will be taken on the claims at some point in time. Taking early collection action might provide a disincentive for court prosecution because some district attorneys refuse to prosecute suspected fraud cases on which collection action has been initiated because court action in such cases will not result in further collections. However, taking early collection action should not affect the number of administrative disqualification hearings because these hearings are conducted by state program officials who do not face crowded court calendars and would therefore hold hearings even if collection action was underway.

Of the 11 offices we visited, 7 were routinely using the administrative hearing process for their suspected fraud cases, and 4 were rarely using it. All these offices used court prosecution to adjudicate some of their

suspected fraud cases. State program officials said that the decision to do so generally depends not only on state laws and regulations but also on the size and relative merits of the case. In one office that routinely initiated recoupment while cases were pending court action, officials told us that prosecuting attorneys did not believe cases were prejudiced by collection action. In the other offices, however, officials said that the prosecuting attorneys they deal with would not prosecute a case if collection action had started because they believed such action would preclude effective prosecution.

Two of the seven offices that routinely used the administrative disqualification process pursued collections while cases were awaiting such hearings. Program officials in these two offices said that they believed that such actions would not affect the outcome of the hearings. The other five offices treated such claims the same as those awaiting criminal prosecution in court.

The Food Stamp Act does not specifically address the timing of collection action to recover overpayments from households scheduled for administrative disqualification hearings or court prosecution. However, food stamp regulations give states the option of postponing collection action on such cases if they believe that collection proceedings might prejudice the outcome of the adjudication.

From our review of collection actions, we believe that states could substantially improve recoveries by starting collection action on claims against participants awaiting administrative hearings. In four offices that used such hearings but did not pursue collection until after the hearings were completed, collection through recoupment was generally delayed at least 4 months. If recoupment procedures had been started while administrative hearings were pending, the offices could have increased collections an average of \$89 per claim,⁶ based on our sample of claims.⁷ In fiscal year 1984 (the most recent nationwide data available), 22,699 administrative disqualification hearings were held.

⁶The potential increased collections were computed based on the use of recoupment because (1) this was the collection method later used when collection action was initiated or (2) the recipient never agreed to repay; therefore, recoupment was the only collection method that could have been used while the recipient was still receiving benefits.

⁷A separate sample of 50 claims pending administrative disqualification hearings was examined in Texas because, although the state leads the nation in number of administrative hearings, only one such case surfaced in our original sample. The state conducted 4,245 hearings in calendar year 1983. The separate sample of cases was selected from the record of 502 hearings held in January 1984.

Conclusions

The success and efficiency of collection actions can be further enhanced if they are started at the earliest possible time. However, several impediments are preventing state collection offices from taking timely and efficient collection actions.

First, neither food stamp nor AFDC regulations give needed emphasis to the priority processing of claims against current participants. Although it would be best to process all claims as soon as they are received, this is not always possible because of the large volume of claims in many offices. However, we believe that collection offices having more claims awaiting processing than they can handle in the month received, as we found to be the case in some offices, should specifically give priority to processing claims involving current participants. By doing so, states will increase their chances of collecting on claims before recipients leave the programs and stop receiving benefits.

Second, the 30-day debt notification response period required for the Food Stamp Program and used in some states for the AFDC Program is unnecessarily lengthy and significantly reduces, or delays the start of, collections. Although participants should be given a reasonable period of time to respond to notice that they must repay excess benefits they received, such response time should not be excessive because it can delay the start of recoveries. We believe, and federal, state, and local program officials agreed, that AFDC's 10-day response period should be adopted for both programs to improve collections, administrative efficiency, and consistency between the programs.

Third, the systems used by some states to identify former participants with outstanding claims who reenter the programs have not been fully effective and, as a result, collections have not been made of amounts owed by some of those participants. States need to ensure that, whenever possible, collection action is started in such cases to recover overpaid benefits.

Fourth, some states' practices of delaying collection action on recipients until administrative hearings are completed have reduced the amount of overpayments collected. By changing food stamp regulations to require collection action on claims against participants awaiting administrative disqualification hearings, states could increase collection results without impairing their ability to obtain fair and objective determinations as to whether the participants involved intentionally violated program rules.

Recommendation to the Congress

We recommend that to improve collections of overpaid benefits, maximize the use of recoupment, and improve consistency between the AFDC and Food Stamp Programs, the Congress amend the Food Stamp Act of 1977 to require a maximum 10-day period for participants to respond to payment demand letters. Such a change can be accomplished by changing the word “thirty” to “ten” in the second sentence of section 13(b)(1)(A) (7 U.S.C. 2022(b)(1)(A)).

Recommendations to the Secretaries of Agriculture and Health and Human Services

We recommend that to improve the timeliness of state collection actions, the Secretaries of Agriculture and Health and Human Services direct the Administrators of FNS and OFA, respectively, to

- require priority processing of claims involving current participants by establishing time-period criteria that would require prompt collection action on such claims and
- evaluate the operations of states’ systems used to start collection action on cases involving former participants with outstanding claims who reenter the programs, identify reasons why such cases are not always identified at the time of application, and assist the states to improve their operations to remedy any such problems.

Recommendation to the Secretary of Agriculture

We recommend that the Secretary require states to initiate collection action on food stamp claims involving participants awaiting administrative disqualification hearings.

Agencies’ and States’ Comments and Our Evaluation

In commenting on a draft of this report, USDA, HHS, and the five states that commented said that they generally agreed with these recommendations. (See apps. III-V.)

Regarding our recommendation that the Congress amend the Food Stamp Act of 1977 to require a maximum 10-day period for participants to respond to payment demand letters, USDA said that it was scheduling such a provision for consideration in developing future legislative proposals. The Oregon Department of Human Resources said it agreed that the 30-day period is unnecessary and inconsistent with AFDC collection standards. It also said a 10-day response time is more effective and would make food stamp collection standards consistent with AFDC standards. In addition, the Texas Department of Human Services strongly

supported shortening the time allowed for responding to debt notification letters.

HHS agreed with the intent of our recommendation to require priority processing of claims involving current participants by establishing time-period criteria that would require prompt collection action on such claims. HHS said that, although its AFDC regulations require prompt collection of benefit overpayments and it is a sound administrative practice to give priority to claims involving current recipients, it does not believe it would be practical to mandate such a procedural practice through regulation. However, HHS said that it would issue an Action Transmittal which instructs the states on appropriate management practices for handling backlogs of overpayment claims. It is unknown at this time whether the action proposed by HHS will adequately address the backlog problem. We believe it makes sense for offices that have a backlog of claims to give priority to claims against current recipients. By doing so, these offices will maximize their administrative resources by having their collection personnel work on claims that have the greatest potential for recoveries.

USDA said that as part of an interagency effort to more closely align AFDC and Food Stamp Program regulations, FNS is proposing to adopt AFDC time frames for acting on claims. That is, states will be required to initiate collection action by the end of the quarter following the quarter in which the overpayment is first identified. We believe this proposal represents a step in the right direction. However, as pointed out in this chapter, such a procedure still would allow states as long as 5 months to initiate collection on an overpayment and could result in lost or deferred recovery of overpayments. In working together on their interagency effort, FNS and OFA have an opportunity to examine ways to further tighten this time-period criterion to allow for faster initiation of collection action for these types of claims. ▲

USDA and HHS agreed with our recommendation to evaluate the operations of the systems states use to start collection action on cases involving former participants with outstanding claims who reenter the programs and to help states improve these systems. USDA said that it was encouraging states that do not have such capability to include it in their systems and that it was continuing to take action to promote this aspect of recovering overissuances. USDA said that it was preparing a publication intended to provide states with technical assistance with claims systems in general and that the system to check on debts of those

reentering the program is a key component discussed in that draft publication. USDA also said that it was emphasizing claims as a priority item this year and that as its regional offices examine states, problems will be identified and appropriate corrective actions encouraged. USDA added that it had alerted its regions to work with states to assure that states' systems provide for identifying these cases.

According to HHS, its Financial Operations Manual was being updated. The manual prescribes the schedule, scope, and content of AFDC financial management reviews conducted in the states. HHS said that the update, which was to be distributed in January 1986, would require, among other things, a special review devoted to state internal controls and overpayment recovery systems. In addition, HHS said that the manual would require follow-up actions in instances when a review is conducted and deficiencies are found. According to HHS, the special review of overpayment recovery systems is to be completed in each state within the next 3 years and will address the issue we raise on starting collection actions on former recipients with outstanding claims who reenter the AFDC Program.

USDA and the Texas Department of Human Services disagreed with our recommendation that USDA require states to initiate collection action on food stamp claims involving participants awaiting administrative disqualification hearings. USDA said that a regulatory change is not necessary to speed the collection of claims from these recipients because states have this option under current rules. USDA added that states are best qualified to determine when collection of these claims is feasible and said that it would continue to remind states of this option and encourage them to use it where appropriate. We continue to believe that USDA should require states, through regulation, to initiate collection action on these types of food stamp claims. As discussed in this chapter, four of the six states we visited that used the administrative disqualification process were not pursuing collections while cases were awaiting such hearings and substantial recoveries were being lost.

The Texas agency did not agree that collection action should be started on claims against participants awaiting administrative disqualification hearings. It said that it offers these recipients an opportunity to waive their attendance at the administrative hearings and negotiates payback agreements with those who do so. The Texas agency estimated that 50 percent of the recipients do not waive their attendance and said that it believed these individuals clearly wish to have a hearing of their positions before an objective third party. According to the Texas agency, to

begin collection action against these persons prior to their hearings appears to be a denial of their right to due process. In addition, the Texas agency said that it believed it would be administratively burdensome to begin nonfraud recovery and then have to amend the status to fraud recovery following the hearing, as would be the situation in about 93 percent of these cases. The agency estimated that 6,000 claims each year would have to be converted from 25 percent state retention to 50 percent state retention, and the recoupment from 10 to 20 percent of the allotments. Finally, in the draft of this report, we indicated on the basis of discussions we had with program officials during our review, that Texas would reconsider its position on this issue. However, in its formal comments, the Texas agency said that it was not willing to reconsider and it asked that the final report reflect its official position.

We believe that the Texas agency should initiate collection action against individuals awaiting administrative disqualification hearings. Such an action would not deny due process to the recipient because an administrative disqualification hearing can only be initiated after an overpayment has been identified and the recipient has the right to appeal the overpayment amount. The purpose of the administrative hearing process is to determine whether an overpayment was caused by intentional error (fraud) on the part of the recipient. Regardless of the hearing's outcome, the state must ultimately attempt to recover the overpayment. The individual would still have the right to prove the overpayment was not caused by intentional error during the hearing. Also, the recipient has the right to appeal the overpayment decision by requesting a fair hearing. All collection action is suspended while such a fair hearing is pending. Implementing our recommendation would not affect the fair hearing process.

On the matter of administrative burden, some administrative action is already needed to handle the proper disposition of these cases. While there may be some additional administrative cost associated with amending the status of these cases, we believe the potential increase in collections—\$89 per case—warrants our recommended action. In addition, the two states in our sample that already initiate collection action while administrative hearings are pending and the remaining states that commented on our report did not indicate that amending the status of these cases to fraud recovery following the hearing would be administratively burdensome.

More Use Should Be Made of Additional Techniques to Collect From Former Participants

States generally have had more difficulty collecting from those no longer in the programs than from current participants. In our 1983 report,¹ we said that collections from former food stamp participants were limited because states were not pursuing all available collection techniques, such as using small claims courts and private collection agencies and offsetting state income tax refunds against benefit overpayments. In enacting the Omnibus Budget Reconciliation Acts of 1981 and 1982, the Congress provided states financial incentives to recover overpayments and authority to use any collection techniques available under state law. Since then, FNS has encouraged states to use all available means of collecting claims from former participants. While some states' collection offices had increased the use of additional methods to collect claims against former participants, others made only limited use of additional techniques because they were not available under state law, because program officials did not believe they were effective, or for other reasons. According to the USDA OIG's January 1985 report,² claims against households no longer participating in the Food Stamp Program totaled about \$135 million, and payments were not being made on \$85 million of these claims.

In December 1985, legislation was enacted to require, rather than authorize, states to use all cost-effective collection means for food stamp overpayments and to allow states to collect overpaid food stamp benefits in cases of intentional violation by having appropriate amounts withheld from any unemployment compensation due an individual. The legislation also allows state unemployment compensation agencies to require applicants to disclose whether they owe an uncollected overissuance of food stamps.

The experiences of Oregon, New Jersey, and HHS' Office of Child Support Enforcement with the use of tax refund offsets indicate that this method might also improve collecting claims against former participants if offsets of federal income tax refunds were used for the AFDC and Food Stamp Programs. The Deficit Reduction Act, enacted in July 1984, authorizes retention of federal income tax refunds to satisfy nontax debts owed the federal government. However, it is unclear whether the Congress intended that food stamp and AFDC overpayment claims be covered by the act's offset provisions because the language of the act does not specify coverage of these claims. HHS' General Counsel has

¹See footnote 5, ch. 1.

²See footnote 6, ch. 1.

determined that AFDC overpayment claims do not qualify for offset under the act, while Agriculture's General Counsel has determined that food stamp overpayments qualify for offset. We believe that the potential improvements in collections warrant congressional consideration of specifically authorizing the use of federal income tax refund offsets for the Food Stamp and AFDC Programs on a trial basis and continuing the use if it proves to be cost-beneficial.

Results of Legislative Initiatives to Increase Collections From Former Participants Have Been Mixed

To improve collections in the Food Stamp Program, the 1981 and 1982 Omnibus Acts allowed states to retain a share of some of the amounts collected and authorized states to use any collection techniques available under state law. The Food Security Act of 1985, enacted December 23, 1985, strengthened the latter provision by requiring states to use all cost-effective collection means. The Congress also emphasized the need for aggressive collection actions in the AFDC Program by enacting legislation requiring states to take appropriate action under state law against the income or resources of former participants to recover overpayments.

Food stamp and AFDC laws and regulations require that states initiate collection action on any claim. Food stamp regulations require that a letter demanding repayment of an overpayment be sent to the household involved and, if there is no response from former participating households, follow-up letters be sent at reasonable intervals, such as 30 days. The number of demand letters required varies with the size of the claim. AFDC regulations do not specify any requirements for demand letters; however, states are required to give participants adequate notice of any adverse actions. If demand letters do not result in the start of repayment, states may pursue collection action against former participants of either program through any method available under state law.

Table 4.1 shows that if demand letters did not result in collections, five of the offices we visited did not use any other collection techniques; the other offices used various other methods. Data were not available to show the effectiveness of each collection method used.

**Chapter 4
More Use Should Be Made of Additional
Techniques to Collect From
Former Participants**

**Table 4.1: Collection Methods Used
Against Former Participants**

Collection office	Small claims court				State tax intercept
	Judgments	Liens	Garnish wages	Private agencies	
Alabama/ Jefferson					
Arkansas					
Indiana/Marion					
Kentucky/ Jefferson					
Nevada/Las Vegas	A		A		
New Jersey/ Camden					
North Carolina/ Mecklenburg	X	X			
Ohio/Lucas & Montgomery					
Oklahoma		A			
Oregon	X	X	X		
Texas					X

X - Collection method used for food stamp and AFDC claims.

A - Collection method used for AFDC claims only.

Program officials in the four county offices in Alabama, Indiana, and Ohio that used only demand letters told us that they did not have interest in using additional collection techniques, except for tax refund offsets, which were not authorized under state law. In the fifth office (Jefferson County, Kentucky), new initiatives were being considered. In demand letters did not result in collections in Jefferson County, Kentucky, the claims were to be referred to a newly created state collection office for further action. According to program officials, that office was created in 1984 by the state program office in Kentucky to pursue collections from former participants because local offices did not have sufficient staff resources to do that. We also were told that the new office would pursue collections through whatever methods program officials believe to be cost-effective. At the time of our discussion, they were considering the possibility of using small claims courts, private collection agencies, or state tax refund offsets, but their plans were not firm at that time. Some of the collection approaches that other offices used are discussed in the following paragraphs.

In fiscal year 1984, Texas completed a 6-month pilot project in Harris County (Houston) in which food stamp claims against former participants resulting from intentional program violations were collected

through a private collection agency. These included claims outstanding since 1981. The state's agreement with the private collection agency allowed the collection agency to retain 30 percent of the collections and required that collection activities comply with state laws regarding individuals' privacy rights. The private agency collected \$7,972 on 84 of 160 claims referred.

State collection officials regard this project as successful and cost-effective because they believe that recoveries would not have been made otherwise. During our review, the state office was in the process of making agreements with collection agencies in other parts of the state. Although all collection offices in the 11 states we visited were permitted to use private collection agencies, officials in the other 10 states said that their offices could collect as effectively as the private agencies, or that they were unsure of possible legal repercussions regarding private collection agencies' methods or the release of federal claims information to such agencies.

In Oklahoma, if demand letters to former AFDC participants did not result in recoveries, action was taken through small claims courts to file liens against the former participants' real property. Under state law, the collection office could file liens to recover overpayments only of benefits involving state funds; therefore, liens could not be used to recover overpayments of food stamp benefits, which are wholly federally funded.

Offices also pursued collections through small claims courts in Oregon; Mecklenburg County, North Carolina; and Nevada. Oregon officials stated that they used small claims courts to obtain civil judgments, liens, and wage garnishments to collect AFDC and food stamp claims when collection officials had knowledge that the former participants had assets or income that was subject to such action. The Mecklenburg County office took similar action in small claims court, except for wage garnishment for which it did not have authority under state law. Nevada program officials told us that collection offices in Nevada were using small claims courts to obtain civil judgments and wage garnishments to collect AFDC claims from former participants. The officials said that small claims courts were used for AFDC but not food stamp claims because Nevada's AFDC claims were generally larger than food stamp claims. Also, they said that experience had shown this method to be cost-effective for AFDC but not for food stamp claims. None of three offices had data showing the cost-effectiveness of using small claims courts. However, program officials told us that this method could be effective when

it is known that a former participant with an unpaid claim has assets or income that could be attached through the courts.

All collection officials with whom we discussed state tax refund intercepts viewed this approach as a highly cost-effective collection method, but only 3 of the 11 states we visited (Arkansas, New Jersey, and Oregon) had authority under state law to use this method. Arkansas had recently acquired such authority and planned to begin using it in 1984. Arkansas collection officials said that the 1981 Omnibus Act provisions authorizing states to retain a share of the collections was a key factor in their obtaining authority to recover overpayments through the interception of state income tax refunds. New Jersey had been using tax refund intercepts for the AFDC and Food Stamp Programs since 1982. Oregon started in 1976 for AFDC claims and expanded to food stamp claims after states were authorized to retain a share of the collections. The intercepts in New Jersey and Oregon include refunds of both state income taxes and property taxes. Table 4.2 shows the results of income and property tax refund intercepts in New Jersey and Oregon.

Table 4.2: Use of Tax Refund Intercepts to Collect Overpayments in New Jersey and Oregon

State and calendar year	Number of claims referred for intercepts	To collect
New Jersey		
1982	1,730	\$54,000
1983	9,588	350,000
1984	14,756	
Oregon		
1982	33,950	274,000
1983	32,147	528,000
1984	37,800	243,000

^aData for this period were not available at the time of our review.

^bCollections through Mar. 1984.

In New Jersey, county welfare agencies may submit for tax refund interception claims for overpayments of \$100 or more to AFDC or food stamp participants who have been the subject of court orders, who have defaulted on a repayment agreement, or who were repaying through recoupment but are no longer receiving benefits. Oregon uses tax refund intercepts to collect overpayments of \$25 or more. In both New Jersey and Oregon, the tax departments retain 10 percent of the collections to cover their costs. The AFDC and food stamp collection offices we visited

in these states did not have any additional data available on the administrative costs associated with this collection method; however, officials at these offices said that, overall, the tax refund offset procedures were highly cost-beneficial.

In our 1983 report,³ we recommended that USDA provide technical assistance to improve claims collections by (1) disseminating information on alternative and innovative collection techniques and (2) assisting in implementing these collection strategies by such actions as developing model state legislation authorizing the offset of state income tax refunds to recover overpayments. FNS' efforts in this area included distributing information on collection techniques that some states had found to be effective. We also recommended that the Food Stamp Act be amended to require states to recover overpayments by taking appropriate action under state law against the income or resources of an individual or household no longer participating in the program. We said that such appropriate action would include consideration of whether the recovery and deterrent benefits involved justify the associated collection costs. The Congress recently adopted our recommendation by including such a provision in the Food Security Act of 1985.

Use of Federal Income Tax Refund Intercepts Has Potential for Increasing Collections

Offset of federal income tax refunds has potential for improving the collection of delinquent AFDC and food stamp claims—claims against former recipients that have been the most difficult to collect. The experience of two states (Oregon and New Jersey) and the Office of Child Support Enforcement with the use of tax refund offsets indicates that the offset procedure is effective at recovering such claims. However, the cost-effectiveness to the federal and state programs and the financial impact on former recipients of using this collection procedure for food stamp and AFDC overpayment claims is unknown and should be determined. Some federal and most state program officials we talked with said that they would like to use the federal tax intercept procedure to collect delinquent claims, but they believe current legislation does not allow them to do so. We believe the Congress should consider specifically authorizing the use of this collection procedure, on a test basis, for the Food Stamp and AFDC Programs so that the states and federal program officials could use it in circumstances where they believe it is cost-effective to do so.

³See footnote 5, ch. 1.

Offset of tax refunds to recover delinquent debts is generally considered by program officials to be a collection method of last resort. They say it should only be used on claims against former recipients because recoupment would be used for claims against current recipients and, therefore, such claims would not be considered delinquent. Also, claims against former recipients would not be considered delinquent unless they had been notified of the overpayment and the former recipients were not repaying.

According to Office of Child Support Enforcement officials, federal income tax refund intercepts have been successfully used to recover delinquent child support payments under authority of the Omnibus Act of 1981. Office of Child Support Enforcement officials told us that this process has been highly cost-effective—\$179 million of federal income tax refunds offset against delinquent child support payments for 698,000 cases in 1983, with \$3.7 million reimbursed to IRS for the cost of making the offsets. Figures for the first 9 months of 1984 were \$205 million of offset for 912,045 cases with \$1 million in reimbursed costs. Under an interagency agreement, claims of \$150 or more that have been delinquent for 3 months or longer are referred each December to IRS for tax refund offset during the following year. However, we were told that IRS will offset refunds against claims as small as \$25. Collection of these size claims is consistent with AFDC and food stamp regulations, which specify that the states should pursue the collection of claims of \$35 or larger.

A large percentage of the AFDC and food stamp claims exceed the \$150 minimum size used in the child support tax refund offsets. On the basis of our sample results, we estimate that in the 11 offices reviewed, overpayments of \$150 or more occurred in 65 percent of all the AFDC claims and 44 percent of all food stamp claims. Of the claims we reviewed, the average claim established in fiscal year 1984 was \$466 for the AFDC Program and \$343 for the Food Stamp Program. The USDA OIG reported similar findings in its January 1985 report.⁴ The report projected that overpayments of over \$100 accounted for about \$240 million (91 percent) of the \$263 million of unpaid claim balances. We were unable to determine the cost-effectiveness—the overall improvement in collections—or the financial impact on former recipients because data are not readily available from program records on the number of former recipients with tax refunds and the refund amounts.

⁴See footnote 6, ch. 1.

The Congress authorized the use of federal income tax refund offset for other programs in the Deficit Reduction Act of 1984. The act directs the Secretary of the Treasury to intercept federal income tax refunds otherwise due to individuals and offset them against past-due legally enforceable debts owed the federal government by such individuals. The act calls for a 2-year test of the offset procedures. However, it is unclear whether the Congress intended that the tax refund offset provision be used for the Food Stamp and AFDC Programs. Although the act excludes the Old Age, Survivors, and Disability Insurance Program, it does not specify which programs are included in the offset authority. The only mention in the legislative history of the applicability of these provisions for assistance programs was in a statement inserted for the record. In this statement, the Chairman of the Senate Committee on Agriculture, Nutrition, and Forestry recommended that the tax offset provision be passed because it would improve collections in many federal programs, including the Food Stamp Program. He referred to several GAO reports issued since 1978 (see ch. 1) that pointed out the need for improved collections and recommended the offset of federal income tax refunds to recover overpaid benefits in the food stamp and other needs-based programs.

FNS officials told us that federal tax refund intercepts would be a desirable mechanism to recover overpayments, especially against former participants. In a May 7, 1985, memorandum, Agriculture's Office of General Counsel informed FNS' Deputy Administrator for Family Nutrition Programs that the Deficit Reduction Act amendment would apply to food stamp claims, which means that federal tax intercepts could be used to recover overpayments. However, Agriculture was unsure about the requirements that IRS would impose on agencies that request tax intercepts. FNS officials said that they would like to test the cost-effectiveness of intercepting federal tax refunds before making widespread use of the procedure.

OFA officials told us that they do not believe that the tax refund intercept provisions apply to AFDC overpayments, based on the advice of HHS' General Counsel that AFDC overpayments are not debts owed to the federal government. HHS' General Counsel contended that an erroneous AFDC payment to a participant creates a debt owed to a state government. The state owes the federal government for collections made on participant claims and for penalties if erroneous payments are above certain tolerances. OFA officials said that they did not have any plans to seek recovery of overpayments through intercepting federal income tax refunds and that a statutory change would be required to permit this.

IRS officials told us that IRS had worked closely with the Congress to help design the offset provision in the Deficit Reduction Act of 1984 and that the agency supports the 2-year test being made of federal tax refund offsets. They said that in the past, IRS had found that implementing the offset was administratively feasible and the reimbursements it had received for making the offset covered the cost of the effort. However, IRS officials said that the agency's primary duty is to collect taxes and cautioned that offsetting tax refunds could interfere with tax collection efforts by giving persons a disincentive to have tax payments withheld or to file tax returns. They said that the offset's impact on voluntary tax compliance was being studied as part of the 2-year test. However, IRS officials acknowledged widespread support for offsetting federal tax refunds to collect debts owed the federal government and said that IRS will undertake all legislated debt collection actions.

State program officials for both programs at the five state offices we visited suggested the use of federal income tax refund offsets to improve collections of claims against former recipients. They said that such a collection provision would enable the use of tax refund offsets in all states and not just those with state income taxes and legislative authority to offset the tax refunds. They also pointed out that currently the states and county offices must take all the actions to collect overpayments even though the recoveries are shared with the federal government. They said the use of federal income tax refund offsets would enable the federal government to share the burden of collecting overpayments and could substantially increase the overall effectiveness of collection operations.

Conclusions

Legislative changes that authorized the use of additional collection techniques and provided financial incentives to collect on claims have prompted some states to expand their efforts to recover overpayments made to former recipients of food stamp and/or AFDC benefits. Offices that have used additional collection techniques, especially offset of tax refunds, have found them to be effective in collecting from former program participants. However, because some states make little or no use of additional collection methods or are not authorized to use methods such as the interception of state tax refunds, the collection of overpayments from former participants is still limited.

In our 1983 report⁵ on the need for greater efforts to recover the cost of food stamps obtained through errors or fraud, we recommended that the Congress amend the Food Stamp Act to require states to recover overpayments by taking appropriate action under state law against the income or resources of former participants who are not making satisfactory repayments. The Congress recently adopted our recommendation by including such a provision in the Food Security Act of 1985.

The use of federal income tax refund offsets could help in recovering overpayments made to former program participants, but OFA has concluded that AFDC overpayment claims are not subject to the offset authority under the Deficit Reduction Act. We believe that the use of federal income tax refund offsets has the potential for improving collections, but uncertainties still exist. For example, the cost-effectiveness—the overall improvement in collections—to the federal and state programs and the financial impact on former recipients of using this collection procedure for food stamp and AFDC overpayment claims is unknown and should be determined. However, given the success the two states we visited had and the large remaining uncollected claims from former recipients, we believe the potential improvement in collections warrants consideration by the Congress for specifically authorizing the use of such offsets for the Food Stamp and AFDC Programs on a trial basis and continued use if it proves to be a cost-beneficial collection method.

Matter for Consideration by the Congress

We believe that if the 2-year test of tax refund offsets specified by the Deficit Reduction Act of 1984 proves that such offsets are feasible, the Congress should consider specifically authorizing states to submit unpaid claims against former AFDC and food stamp recipients for collection using offsets of federal income tax refunds through procedures similar to those employed under the Deficit Reduction Act. To initially test the cost-effectiveness of the procedure, states should be allowed to use the procedure, on a voluntary basis, closely monitored by the responsible federal program agencies to ensure that adequate data are developed to evaluate the feasibility and cost-effectiveness of using it on a programwide basis.

⁵See footnote 5, ch. 1.

Agencies' and States'
Comments and Our
Evaluation

In commenting on a draft of this report, USDA and HHS did not specifically comment on our matter for consideration by the Congress. The five states that commented generally agreed that more use should be made of additional techniques to collect from former participants. Oregon's Department of Human Resources said that for several years, Oregon has successfully used the interception of state tax refunds to collect AFDC and food stamp overpayments. It believes that federal tax refund interception makes financial sense and should be used to collect overpayments.

Summary of AFDC and Food Stamps Claims Sampled

**Table I.1: Summary of AFDC Claims
Sampled**

	Alabama	Arkansas	Indiana	Kentucky
Recoupment claims				
Months in universe	8	2	2	3
Universe number of claims	96	125	66	70
Total claims sampled	96	87	66	70
Recoupment claims sampled	25	25	39	30
Nonrecoupment claims				
Months in universe	8	1	2	3
Universe number of claims	96	70	66	70
Total claims sampled	50	50	66	70
Nonrecoupment claims sampled	25	37	27	40

**Appendix I
Summary of AFDC and Food Stamps
Claims Sampled**

New Jersey	Nevada	North Carolina	Ohio	Oklahoma	Oregon	Texas	Total
1	2	2	1	1	1	1	
294	104	60	86	218	767	475	2,361
41	65	59	66	72	65	50	737
34	25	25	29	25	25	25	307
1	1	1	1	1	1	1	
294	40	27	86	218	767	475	2,209
41	40	27	66	50	50	50	560
7	21	17	37	34	31	25	301

Appendix I
Summary of AFDC and Food Stamps
Claims Sampled

Table I.2: Summary of Food Stamp
Claims Sampled

	Alabama	Arkansas	Indiana	Kentucky
Recoupment claims				
Months in universe	3	1	1	5
Universe number of claims	116	378	139	46
Total claims sampled	109	101	47	46
Recoupment claims sampled	25	25	27	25
Nonrecoupment claims				
Months in universe	1	1	1	5
Universe number of claims	39	378	139	46
Total claims sampled	39	50	47	46
Nonrecoupment claims sampled	36	37	20	21

**Appendix I
Summary of AFDC and Food Stamps
Claims Sampled**

New Jersey	Nevada	North Carolina	Ohio	Oklahoma	Oregon	Texas	Total
1	1	5	1	1	1	1	
111	103	132	73	305	2,898	3,007	7,308
52	96	126	52	82	69	50	830
29	26	25	18	25	25	25	275
1	1	1	1	1	1	1	
111	18	24	73	305	2,898	3,007	7,038
52	18	24	52	60	50	50	488
23	13	20	34	43	31	25	303

Precision of Sample Estimates and Computation of Potential Collection Increases

The precision of our sample estimates and the computation of potential increased collections cited in this report are discussed in detail in the following sections.

Precision of Sample Estimates

By design, the state and local offices we selected for review differed in ways that had potential to influence the manner and efficiency of recoupment claim processing. These differences included but were not limited to (1) the total number of claims (of all types) established each month, (2) the proportion of claims subject to recoupment procedures and the variability in this proportion from month to month, (3) the procedures for organizing recoupment claims and initiating actions, and (4) the recency and extent to which recoupment procedures had been implemented. These considerations led us to adopt a case study approach for our review.

At each office we visited, our goal was to examine a sample of 100 claims from among those established during one of the earliest months in which the food stamp recoupment regulations were fully implemented. If fewer than 100 claims had been established, we reviewed all claims. In examining recovery actions through recoupment, we wanted to examine at least 25 food stamp and 25 AFDC nonfraud claims for which recoveries were or could have been made through recoupment. If our initial sample did not give us at least 25 recoupable claims for each program, we selected additional cases in the sample month or, if necessary, selected cases from other months until we had the minimum number of 25 claims. In all, we reviewed 275 food stamp and 307 AFDC recoupment cases.

In addition, we reviewed 303 food stamp and 301 AFDC cases that were not subject to recoupment when the claim was established. These cases, analyzed separately from recoupable claims, were used to identify instances where a participant left the program with an outstanding claim and later reentered the program. See appendix I for sample and universe sizes and the following pages for a discussion of the precision of the major estimates made from the sample data. The results of this sample are representative of the 11 locations we visited for the period of our review but are not projectable to the entire Food Stamp or AFDC Programs.

For the sampled claims at each of the locations in the 11 states we visited, we collected data on actual and potential repayments for the first 6

**Appendix II
Precision of Sample Estimates and
Computation of Potential
Collection Increases**

months after claim establishment. When estimates (or measures of precision) are reported for combinations of locations, they are based on standard statistical formulas for stratified samples with simple random sampling within each strata (as appropriate for the sampling plan used).

Because we reviewed only a sample of the claims established, the sample estimates may vary from the true values in the population of claims from which the samples were drawn. Table II.1 gives a measure of the precision of our sample estimates of the amount of potential increased claims collections during the first 6 months after claim establishment for claims established in the sampled month(s) at the locations visited.

Table II.1: Precision of GAO Estimates of Potential Increased Collections

Recommended action	Food Stamp Program		AFDC Program	
	Sample estimate	Sampling error at 80-percent level of confidence	Sample estimate	Sampling error at 80-percent level of confidence
Require recoupment on agency-error cases	\$20,076	\$ ± 11,585		
Use recoupment instead of installment payments	3,377	± 3,130	\$710	\$ ± 121
Recoup overpayments while cases are pending administrative hearings	23,314 ^a	± 5,269		
Give priority to processing claims against participants still in the programs	8,289	± 1,474	10,267	± 1,044
Change the time allowed for participants to respond to debt notification letters to 10 days	22,769	± 5,567		
Improve systems to flag and recoup from participants reentering the programs with outstanding claim balances	585	± 196	434	± 127

^aIncludes estimates from sample of 50 claims selected from record of 502 administrative hearings held in Texas in January 1984.

Computation of Potential Increased Collections

The potential increased collections cited in this report were estimated as follows.

1. The per claim average increased collection amount (total increased collections identified divided by number of cases reviewed) was multiplied by the number of claims established during the month for which increased collections were being calculated.

**Appendix II
Precision of Sample Estimates and
Computation of Potential
Collection Increases**

2. Since collections in a given month result not only from claims established in that month but also from claims established in prior months, the procedure described in step 1 was repeated for each of the 5 months preceding the month for which the initial calculating was being done.

3. The figures derived in steps 1 and 2 were added to form the estimate for the 6-month period.

These estimates show the potential magnitude of increased collections that could have resulted from changes at each office reviewed but were not intended to provide a precise measurement of the effect of recommended changes. Many factors can influence the actual average potential collections increase per claim for claims established in a given month. These include (1) the proportion of claims established that have recoupment potential (recoupment cannot be used for those who have already left the program or for food stamp claims caused by agency error unless a participant agrees to it), (2) the average potential increased collections for those cases where use of recoupment is possible, and (3) the average amount of collections actually made under the existing system.

The amounts presented in this report as potential increased collections from timelier use of recoupment during the period covered by our review represent the maximum additional collections that could have been made through greater use of recoupment in the locations visited for the time periods specified. This magnitude of collections could have been realized when participants left the Food Stamp and AFDC Programs without fully paying off their claims. However, we could not tell how long the participants whose claims we reviewed would have remained in the programs. If all the participants stayed in the programs long enough to repay the entire amount of their overpayment claims, the benefit of earlier collections would have been limited to the amount of interest that might have been earned on those collections. This would be the minimum amount of benefits obtained from timelier collection actions. However, as explained in this report, data we obtained indicate that on average, it takes longer to complete recoupment on claims than the average length of time participants are in the programs at any one time.

Our estimates of potential increased collections resulting from improved identification of former participants do not include any potential increases in collections from participants who reentered the programs after being off the rolls for more than 6 months. Likewise, possible increased collections from individuals who were on the rolls for 2

**Appendix II
Precision of Sample Estimates and
Computation of Potential
Collection Increases**

months after the claim was established but who left the programs without repaying the total claim and then later reentered the programs were not included in our estimates. To the extent that collections could be increased from these two types of former participants, our estimates may be understated.

Regarding our point on processing claims on current participants first and subsequently pursuing collections from former participants as time allows, we would expect that in any given month, collections from current participants would increase and collections from former participants would decrease. However, our analysis took into account only the potential increased collections from current participants. We did not subtract any potential decrease in collections that could result from reducing the effort to collect from former participants. Thus, our estimates of increased collections could be overstated.

On the other hand, however, our estimates could be understated to the extent that priority processing of current-participant claims could gradually reduce current-participant claims backlogs and eventually eliminate them. If such a backlog is to be reduced, all claims against current participants established during each month, as well as some current participant claims established in prior months and included in the backlog, would have to be processed that month. Our estimates count increased collections from processing claims established in the current month but do not include potential collections from processing current-participant claims from the backlog. As a result, our estimates could be understated.

Advance Comments From the States of Indiana, New Jersey, Texas, Oregon, and Nevada

Note: GAO comments supplementing those in the report appear at the end of this appendix.

See comment 1.



STATE OF INDIANA

ROBERT D. ORR - Governor

DEPARTMENT OF PUBLIC WELFARE

100 NORTH SENATE AVENUE - ROOM 701
INDIANAPOLIS, 46204

DONALD L. BLINZINGER
Administrator

November 26, 1985

Mr. Barry T. Hill
United States General Accounting Office
Room 1369, South Agriculture Building
14th and Independence Avenue, S. W.
Washington, D. C. 20250

Dear Mr. Hill:

We have received and reviewed your proposed report entitled **BENEFIT OVER-PAYMENTS: LEGISLATIVE AND REGULATORY CHANGE COULD INCREASE RECOVERIES IN THE FOOD STAMP AND AFDC PROGRAMS.**

Recently, I directed my staff to evaluate the problem of delinquent claims in both the AFDC and Food Stamp Programs and recommend strategies to increase financial recovery. Enclosed for your information is specific information on program claims in Indiana and strategies that are being evaluated for use at this time. The proposal for the tax intercept of State refunds has already been accepted and will be used during the filing of 1985 State tax returns.

Also enclosed is a copy of a letter sent to Indiana's United States Congressional delegation concerning access to IRS files for identification of potentially fraudulent program recipients and tax intercept of Federal refunds.

The information you have provided concerning existing obstacles to increased financial recovery of program claims overwhelmingly reflects the limitations State administrators individually are attempting to overcome. It is refreshing to see the active participation of Federal and State agencies in protecting the taxpayers' money.

We strongly support each and every recommendation that you have proposed and must congratulate you on a job well done.

If we may be of any further assistance in this matter, please feel free to contact our agency.

Sincerely,

Donald L. Blinzinger

Enclosures (2)

AN EQUAL OPPORTUNITY EMPLOYER

Appendix III
Advance Comments From the States of
Indiana, New Jersey, Texas, Oregon,
and Nevada

See comment 1.



State of New Jersey

DEPARTMENT OF HUMAN SERVICES
DIVISION OF PUBLIC WELFARE

ALOREY HARRIS
Director

Address Reply to
CN 716
Trenton, New Jersey 08625

November 27, 1985

Brian P. Crowley
Senior Associate Director
U.S. General Accounting Office
Room 1369
South Agriculture Building
14th and Independence Avenue, S.W.
Washington, D.C. 20250

Dear Mr. Crowley:

Thank you for the opportunity to review Benefit Overpayments: Legislations and Regulatory Changes could Increase Recoveries in the Food Stamp and AFDC Programs.

The suggestions made in the report are well thought out and would definitely enhance recovery programs.

Per your request, our copy of the report is herein being returned.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Richard M. Parla".

Richard M. Parla, Chief
Bureau of Local Operations

RMP:MG:c5

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**Appendix III
Advance Comments From the States of
Indiana, New Jersey, Texas, Oregon,
and Nevada**

See comment 1.

Texas Department of Human Services

John H. Winters Human Services Center • 701 West 51st Street
Mailing Address: P.O. Box 2960 • Austin, Texas 78769

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MARLIN W. JOHNSTON



BOARD MEMBERS
J. LIVINGSTON KOSBERG
Chairman, Houston
VICKI GARZA
Corpus Christi
SIDNEY STAHL
Dallas

November 25, 1985

Mr. Brian P. Crowley
Senior Associate Director
United States General Accounting Office
Room 1369, South Agriculture Building
14th and Independence Avenue, SW
Washington, D.C. 20250

Dear Mr. Crowley:

Thank you for this opportunity to review a draft of your report, Benefit Overpayments: Legislative and Regulatory Changes Could Increase Recoveries in the Food Stamp and AFDC Programs.

With a single exception, we support the findings and recommendations contained in your draft. In particular, we strongly support the following recommendations:

1. Recoupment should be required for overpayments caused by agency errors;
2. States should not be required to offer food stamp participants the option of paying in installments;
3. Time allowed for responding to debt notification letters should be shortened; and
4. More use should be made of additional techniques to collect from former participants.

We cannot agree with you that collection action should be started on claims against participants awaiting administrative disqualification hearings. In Texas we offer these recipients an opportunity to waive their attendance at the administrative hearings, and we negotiate payback agreements with those who do so. We estimate that about 50 percent do not waive attendance, and we believe these individuals clearly wish to have a hearing of their positions before an objective third party. To begin collection action against these persons prior to their hearings appears to us to be a denial of their right to due process.

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Appendix III
Advance Comments From the States of
Indiana, New Jersey, Texas, Oregon,
and Nevada

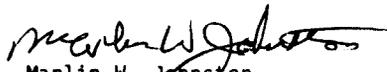
Mr. Brian P. Crowley, Senior Associate Director
Page 2
November 25, 1985

Second, it would be administratively burdensome to begin non-fraud recovery and then have to amend the status to fraud recovery following the hearing, as would be the situation in approximately 93 percent of these cases. These 6,000 claims each year would have to be converted from 25 percent state retention to 50 percent state retention, and the recoupment from ten to 20 percent of the allotments.

Finally, we believe your draft is misleading in that it indicates that Texas is willing to reconsider our position on this issue. For the reasons cited above, we are not. I would appreciate your having the paragraph on page 37 which references the Texas response to this issue deleted from the final version of this otherwise excellent report.

Please contact me if you have any questions about this response.

Sincerely,


Marlin W. Johnston

See comment 1.



Department of Human Resources
ADULT AND FAMILY SERVICES DIVISION
PUBLIC SERVICE BUILDING, SALEM, OREGON 97310

December 2, 1985

Brian P. Crowley
Senior Associate Director
United States General Accounting Office
Washington, DC 20548

Dear Mr. Crowley:

Thank you for sending me the draft copy of your proposed report, Benefit Overpayments: Legislative and Regulatory Changes Could Increase Recoveries in the Food Stamp and AFDC Programs. I have taken the liberty of sharing this draft with appropriate members of my staff and we do have several comments we would like to share with you. Our comments are as follows:

1. The 30-day delay in food stamp recoupment: Oregon agrees that this delay is unnecessary and is inconsistent with AFDC collection standards. A 10-day response time is more effective and would make food stamp collection standards consistent with AFDC collection standards. We favor the 10-day period.
2. Use of federal income tax refunds: For several years, Oregon has successfully used the interception of state tax refunds to collect AFDC and Food Stamp overpayments. We believe that federal tax refund interception makes financial sense and should be utilized to collect overpayments.
3. Recovery of Food Stamp Agency errors by mandatory recoupment: Currently, states retain no monies recovered on agency error cases. States retain 25 percent of recoveries on inadvertent household error cases and 50 percent on intentional program violation cases. Also, under current policy, recovery on agency error cases is voluntary for the client.

We believe recovery on agency error cases should remain voluntary for the client. However, if recovery on such cases is to be mandatory, states should be allowed a 25 percent retention rate equal to that for inadvertent household error cases.

AN EQUAL OPPORTUNITY EMPLOYER

Appendix III
Advance Comments From the States of
Indiana, New Jersey, Texas, Oregon,
and Nevada

Brian P. Crowley
December 2, 1985
Page 2

4. Allowing installment payments in lieu of recoupments: This action delays overpayment recoveries. We believe that on inadvertent error or intentional program violation cases, installment payments (or the return of unused food stamp coupons) should be allowed in addition to mandatory recoupment. Too often clients become delinquent on installment repayments while recovery could be regular under monthly recoupment.

Bill Cockrell, Manager of our Investigation/Overpayment Recovery Unit, is knowledgeable about these issues and can answer any questions you or your staff may have regarding our comments. You can contact Mr. Cockrell by mail at the AFS Investigation/Overpayment Recovery Unit, P.O. Box 14150, Salem, Oregon 97309, or by telephone at 378-4910.

Again, thank you for giving us an opportunity to comment on your draft report.

Sincerely,


Leonard T. Sytsma, Manager
Recovery Services Section

LTS:rvb

3259A

Appendix III
Advance Comments From the States of
Indiana, New Jersey, Texas, Oregon,
and Nevada

RICHARD H. BRYAN
Governor

STATE OF NEVADA

JERRY GRIEPENTROG
Director



DEPARTMENT OF HUMAN RESOURCES
WELFARE DIVISION
251 Jeanell Drive
Carson City, Nevada 89710-0001
(702) 885-4770

December 13, 1985

U.S. General Accounting Office
Room 1369 South Agriculture Building
14th and Independence Avenue, S.W.
Washington, D.C. 20250

Gentlemen:

Please excuse the delay in responding to Mr. Crowley's letter of November 13, 1985. He requested comments by November 18, 1985, on your proposed report entitled Benefit Overpayments: Legislative and Regulatory Changes Could Increase Recoveries in the Food Stamp and HFDC Programs. The Nevada State Welfare Division administrative offices recently moved from 251 Jeanell Drive to 2527 North Carson Street, Carson City. The disruption of the move caused mail delivery to be temporarily delayed.

The report has been reviewed and we are in concurrence with changes you recommended to help increase overpayment recoveries. We particularly appreciate your recommendations concerning recoupment of food stamp overpayments caused by agency error and allowing states to use a 10-day (rather than 30-day) response time to payment demand letters. As you may be aware, Nevada has already implemented the recommended changes directed to the Secretaries of Agriculture and Health and Human Services (pages 39 and 40 of the report).

Thank you for the opportunity to comment. We are looking forward to learning the outcome of your report.

Sincerely,

Handwritten signature of Linda A. Ryan.
Linda A. Ryan
Administrator

LAR:GS:cm

cc: Michael J. Willden, Chief, Eligibility & Payments

See comment 1.

Now on p. 43.

**Appendix III
Advance Comments From the States of
Indiana, New Jersey, Texas, Oregon,
and Nevada**

The following are States' comments and GAO's evaluation.

GAO Comments

1. Discussed on pages 28, 43, and 58 of the report.

Advance Comments From the Food and Nutrition Service, Department of Agriculture

Note: GAO comments supplementing those in the report appear at the end of this appendix.

See comment 1.



United States
Department of
Agriculture

Food and
Nutrition
Service

3101 Park Center Drive
Alexandria, VA 22302

December 16, 1985

Mr. J. Dexter Peach, Director
Resources, Community, and
Economic Development Division
U. S. General Accounting Office
441 G Street, N. W., Room 4915
Washington, D. C. 20548

Dear Mr. Peach:

This is in response to the General Accounting Office (GAO) proposed report entitled, Benefit Overpayments: Legislative and Regulation Changes Could Increase Recoveries In The Food Stamp and AFDC Programs.

We share the concerns expressed and agree that every reasonable effort should be made to recover amounts to which food stamp recipients were not entitled. Claims collection has been among the priorities for improving the Food Stamp Program management since 1983. This emphasis has produced a dramatic 131 percent increase in claims collections between Fiscal Years 1983 and 1985. We are continuing our focus on this area in Fiscal Year 1986, and look forward to further improvements.

Our approach has concentrated upon sharing the techniques that work with States that need improvement. We have provided funds for State officials to travel to other States with successful systems. We have made claims collection the topic of publications and given it high priority in National and regional meetings. We have established six expert teams across the Nation, made up of individuals from the Food and Nutrition Service, States, counties and other offices, to advise States on how to improve claims collection and other anti-fraud activities. Those States with the best performance have been given awards that received media attention.

We also made claims collection a priority area in our monitoring efforts. In Fiscal Years 1984/1985, and now again in 1986, we asked our regional offices to concentrate their efforts on claims collection when reviewing their States' operations. When necessary, we have also taken a firm stand with States and pushed compliance with the recoupment regulations.

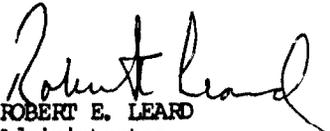
While we agree with GAO that there is opportunity for further streamlining the recovery process, the results of our efforts have been most encouraging. In Fiscal Year 1985, we expect to collect about \$43,000,000 compared to only \$18,600,000 in Fiscal Year 1983. We expect this trend to continue in 1986 and beyond and believe that many of GAO's recommendations can contribute to our efforts.

Mr. J. Dexter Peach

2

We believe that the proposed report presents an even-handed view of its subject and appreciate the opportunity to comment. Our specific comments on GAO's recommendations are enclosed.

Sincerely,


ROBERT E. LEARD
Administrator

Enclosure

**Appendix IV
Advance Comments From the Food and
Nutrition Service, Department of Agriculture**

The Department of Agriculture's Comments on the GAO Draft Report, "Benefit Overpayments: Legislative and Regulatory Changes Could Increase Recoveries in the Food Stamp and AFDC Programs"

(General)

Several of the recommendations in the report are proposed legislative changes directed to Congress. Some of these are even now under consideration by Senate and House conferees. Other recommendations would require changes to the Food and Nutrition Service's (FNS) regulations governing the administration of the Program. Comments on specific recommendations follow:

Recommendation: Amend the Food Stamp Act of 1977 to authorize States to pursue mandatory recoupment on overpayments caused by State agency error.

Comment: Mandatory recoupment of food stamp recipient claims resulting from State agency error is a provision of the Senate's Reconciliation Bill s3170, and is now being examined in conference. The Department supported this provision before the Senate Agriculture Committee during hearings. The Department agrees with GAO that this provision would enhance States' efforts to collect these types of recipient claims, but believes that States should be allowed to decide when recoupment should be used.

Recommendation: Amend the Food Stamp Act of 1977 to eliminate the requirement that recipients be offered the option of making installment payments in recovering overpayments.

Comment: GAO makes a similar recommendation to the Secretary of Health and Human Services regarding the AFDC Program. FNS and the Office of Family Assistance (OFA) are currently working to make the Food Stamp and the AFDC Programs' rules compatible wherever possible. While we are now examining regulatory issues, we will be giving legislative issues top priority next year, and this recommendation will be closely examined for inclusion with our legislative proposals.

The Agency supports the most expedient, effective recovery practical. Toward this end, we support this recommendation. State agencies, rather than recipients, should have the option of collecting through installment payments from both former and current recipients.

Recommendation: Amend the Food Stamp Act of 1977 to require a maximum 10-day period for participants to respond to payment demand letters.

Comment: This inconsistency between AFDC and Food Stamp Program requirements is similarly scheduled for consideration in developing future legislative proposals.

Recommendation: Require priority processing of claims involving current participants by establishing time-period criteria that would require prompt collection action.

Appendix IV
Advance Comments From the Food and
Nutrition Service, Department of Agriculture

Comment: The Agency supports expediting claims involving current recipients. As part of the interagency effort to more closely align AFDC and Food Stamp Program regulations, FNS is proposing to adopt AFDC time frames for acting on claims. A State will be required to take one of three actions by the end of the quarter following the quarter in which the overpayment is first identified. The State must either: recover the overpayment; initiate action to locate and/or recover from a former recipient; or execute a monthly recovery agreement from recipient's grant or income/resources. Any further tightening of these processing requirements would similarly be coordinated with OFA.

Recommendation: Evaluate the operations of States' systems used to start collection action on cases involving former participants with outstanding claims who reenter the Program, identify reasons why such cases are not always identified at the time of application, and assist the States to improve their operations to remedy such problems.

Comment: We agree that all States should ensure that their systems identify applicants with unpaid claims. Many States have this capability and we are encouraging other States to include it in their systems. FNS continues to take action to promote this aspect of recovering overissuances. We now have a publication in clearance that is intended to provide States with technical assistance with claims systems in general. A key component discussed in the publication is the check proposed by GAO. We are also emphasizing claims as a priority item this year and, as our regional offices examine States, problems will be identified and appropriate corrective actions encouraged. Regions have been alerted to work with States to assure that States' systems provide for identifying these cases.

Recommendation: Require States to initiate collection action on food stamp claims involving participants awaiting administrative disqualification hearings (ADH).

Comment: A regulatory change is not necessary to speed the collection of claims from recipients awaiting a disqualification hearing. States have this option under current rules. States are best qualified to determine when collection of these claims prior to the ADH is feasible. We will continue to remind States of this option and encourage them to use it where appropriate.

**Appendix IV
Advance Comments From the Food and
Nutrition Service, Department of Agriculture**

The following are agency comments and GAO's evaluation on the Department of Agriculture.

GAO Comments

1. Discussed on pages 28, 43, and 58 of the report.

Advance Comments From the Office of Inspector General, Department of Health and Human Services

Note: GAO comments supplementing those in the report appear at the end of this appendix.

See comment 1.



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of Inspector General

Washington, D.C. 20201

DEC 27 1985

Mr. Richard L. Fogel
Director, Human Resources
Division
United States General
Accounting Office
Washington, D.C. 20548

Dear Mr. Fogel:

The Secretary asked that I respond to your request for the Department's comments on your draft report, "Benefit Overpayments: Legislative and Regulatory Changes Could Increase Recoveries in the Food Stamp and AFDC Programs." The enclosed comments represent the tentative position of the Department and are subject to reevaluation when the final version of this report is received.

We appreciate the opportunity to comment on this draft report before its publication.

Sincerely yours,


Richard P. Kusserow
Inspector General

Enclosure

COMMENTS OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES ON
THE GENERAL ACCOUNTING OFFICE'S DRAFT REPORT, "BENEFIT
OVERPAYMENTS: LEGISLATIVE AND REGULATORY CHANGES COULD
INCREASE RECOVERIES IN THE FOOD STAMP AND AFDC PROGRAMS"

General Accounting Office (GAO) Recommendation

The Secretary of Health and Human Services direct the Administrator of the Office of Family Assistance (OFA) to revise the AFDC regulations to specify that recoupment be used, rather than offering the option of using installment payments, if the participant is receiving program benefits.

Department of Health and Human Services (HHS) Comment

We believe the intent of GAO's recommendation has merit. Section 402 (a) (22) of the Social Security Act provides that "...recovery will be made by repayment by the individual or by reducing the amount of future aid payable to the family...." We could clarify through regulation that if a recipient opts to repay all or part of the overpayment immediately, the State will accept that payment and establish a recoupment schedule for any balance due. We will consider making such a change in terms of a set of regulations we are currently formulating to promote more effective administration of the Aid to Families with Dependent Children (AFDC) program (Administrative Improvement Regulations).

GAO Recommendation

The Secretary of Health and Human Services direct the Administrator of OFA to:

- (1) require priority processing of claims involving current participants by establishing time-period criteria that would require prompt collection action on such claims; and
- (2) evaluate States' systems used to start collection actions on cases involving former participants with outstanding claims who reenter the program, identify reasons why such cases are not always identified at time of application and assist States to improve operations to remedy problems.

HHS Response

- (1) AFDC regulations do require prompt collection of benefit overpayments, specifying that States take action to collect claims by the end of the quarter following the quarter in which the overpayment is discovered.

We concur with the intent of GAO's recommendation regarding priority processing of claims involving current recipients.

We believe that giving priority to claims involving current recipients is a sound administrative practice. We do not believe that it would be practical, however, to mandate such a procedural practice through regulation. However, we will issue an Action Transmittal which instructs the States on appropriate management practices for handling backlogs of overpayment claims.

(2) We concur with this recommendation and believe that it can best be addressed through the ongoing AFDC State financial management review process.

We are currently updating our Financial Operations Manual which prescribes the schedule, scope and content of AFDC financial management reviews which we conduct in the States. The update, to be distributed in January 1986, will require performance of a number of special financial operations reviews in each State, in addition to ongoing quarterly reviews.

One such special review will be devoted to State internal controls and overpayment recovery systems. Additionally, the Manual will require follow-up actions in instances when a review is conducted and deficiencies are found. All special reviews, including the one devoted to recovery of overpayments, are to be completed in each State within the next 3 years.

The reviews on States' recovery systems will address the particular issue which GAO raised about starting collection actions on former recipients with outstanding claims who reenter the program. We believe these reviews and the required follow-up actions will satisfy the intent of GAO's recommendation.

The following are agency comments and GAO's evaluation on the Department of Health and Human Services.

GAO Comments

1. Discussed on pages 28, 43, and 58 of the report.

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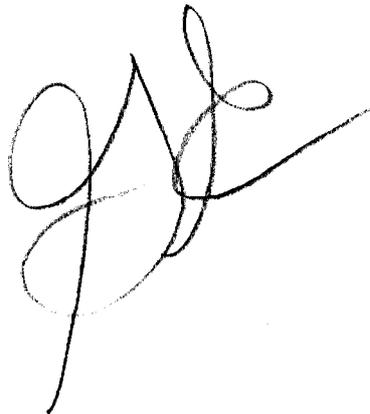
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A handwritten signature in black ink, consisting of stylized, cursive letters that appear to be 'JSE'.