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BY THE U.S. GENERAL ACCOUNTING OFFICE
**Report To The Secretary Of
Health And Human Services**

**Action Needed To Avert
Future Overpayments To States
For AFDC Foster Care**

It is essential that the Department of Health and Human Services promptly audit fiscal year 1978 reimbursements to States under the Aid to Families with Dependent Children foster care program. Payments made during 1978 will be used as the basis for determining allotments to States for fiscal years 1981-84.

GAO's review of reimbursements to New York and California--which received more than half of the \$226 million paid to States in 1978--showed that the States were reimbursed improperly for several types of costs.

Unless the correct level of fiscal year 1978 reimbursements is determined, millions of Federal dollars could be lost in future overpayments. HHS also should recover all costs determined to be unallowable under the foster care program.



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UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

HUMAN RESOURCES
DIVISION

B-199795

The Honorable Richard S. Schweiker
The Secretary of Health and Human Services

Dear Mr. Secretary:

In January 1980, at the request of Senator Henry Bellmon, then Ranking Minority Member of the Senate Committee on Budget, we initiated a review in California and New York primarily directed toward reviewing reimbursements under title IV-A of the Social Security Act, Aid to Families with Dependent Children-Foster Care program (AFDC-FC). Senator Bellmon was particularly interested in the circumstances that resulted in New York receiving about one-half of the total Federal reimbursement to the States for foster care.

Although we will soon be sending you a report addressing this particular issue, we are taking this opportunity to inform you of our findings on another matter disclosed during our review in which substantial savings can be realized if prompt action is taken by your Department.

Our review showed certain unallowable practices regarding fiscal year 1978 reimbursements which, if not given prompt attention, could continue to improperly increase future foster care allotments to the States. This is because fiscal year 1978 is the initial base year for determining allotments to States for fiscal years 1981-84. Specifically, we found that

--over \$12 million in private nonprofit agency, foster family home administrative costs--not eligible for title IV-A Federal sharing--were incurred by New York City and federally reimbursed under title IV-A, and

--New York and California were reimbursed an undetermined amount for costs, attributable to ineligible foster care enrollees.

Since 1978, we have unsuccessfully attempted to have HHS take corrective action to recover amounts reimbursed to New York City for unallowable administrative costs. The latest attempts were during this review when, in November 1980, we again brought the matter of unallowable reimbursement practices to the attention of HHS headquarters staff in the Social Security Administration's Office of Family Assistance and HHS' Office of Human Development

Services and to the attention of the HHS Audit Agency in February 1981. Although some effort was made by the Office of Inspector General in March 1981, when regional audit directors were requested to audit foster care expenditures claimed by States before October 1, 1980, the matter was not given high priority. We are concerned that, because of the way the 1980 law operates (the earliest an adjustment can now take place is beginning with fiscal year 1982), the longer HHS takes to correct the level of fiscal year 1978 Federal reimbursements, the larger the overpayments will be.

The following discussion is intended to provide you with a sufficient factual basis to initiate prompt action to recover the unallowable costs and to avoid future erroneous foster care allotments to States.

BACKGROUND

In fiscal year 1978, and until the Adoption Assistance and Child Welfare Act of 1980 was enacted in June 1980 (Public Law 96-272), HHS under title IV-A of the Social Security Act, matched payments available to the States under the AFDC program, for foster home care of dependent children. In fiscal year 1978, payments to 40 States, Guam, and the District of Columbia under the IV-A AFDC-FC program amounted to \$226 million of which New York's payments amounted to \$108 million and California's \$27 million.

Funding under title IV-A was essentially open ended until enactment of the 1980 legislation. However, Public Law 96-272 created a new part E which imposed a ceiling on foster care reimbursements for fiscal years 1981-84. The 1980 law established fiscal year 1978 title IV-A reimbursements to the States as a "base year" for the computation of these future allotments of foster care moneys.

Because New York City and Los Angeles County accounted for 43 percent of all Federal foster care reimbursements during fiscal year 1978, we focused our attention on Federal reimbursements to those jurisdictions.

New York City claims for fiscal year 1978 were examined to determine the significance and magnitude of unallowable claims for administrative expenses incurred by private nonprofit agencies and reimbursed under title IV-A and their impact on future foster care allotments to States. In addition, we examined available data regarding the number of foster children whose child care cost was not eligible for Federal reimbursement.

Our review was performed at Social Security Administration's Office of Family Assistance; HHS' Office of Human Development Services' Administration for Children, Youth, and Families in Washington, D.C.; and the HHS regional office in New York City. We also reviewed State and local departments of social services in New York and California and interviewed those HHS, State, and local officials responsible for administering the title IV-A AFDC-FC program.

USE OF FISCAL YEAR 1978 FEDERAL
REIMBURSEMENTS AS BASE YEAR
INCREASES THE COST OF FOSTER CARE

Using fiscal year 1978 as a basis for allotments to New York and California without adjusting for incorrect Federal payments has resulted and will continue to result in reimbursements higher than authorized by Public Law 96-272. The act provides that fiscal year 1978 Federal foster care payments to States be used as the basis for allocations to the States for fiscal years 1981-84. The act stipulates that in the event there is a dispute between any State and HHS (section 474 (B)(4)(C)), as to the expenditures for a base fiscal year, upon final resolution the base amount may only be changed in the fiscal year after the one in which the dispute is resolved.

Our review showed that New York and California were reimbursed for unallowable costs in fiscal year 1978, and these costs were included in their 1978 base year figures for the purpose of future Federal reimbursement under Public Law 96-272. Consequently, if prompt action is not taken to audit and expunge all unallowable costs from the 1978 base year figure, future foster care allotments to these States will be made on the basis of an erroneously high base year amount.

Unallowable administrative costs
incurred by New York City were
federally reimbursed

Over \$12 million in private nonprofit agency, foster family home administrative costs--not eligible for title IV-A Federal financial participation--were incurred during fiscal year 1978 by New York City and federally reimbursed under title IV-A.

Section 403 (a)(3) of title IV-A of the Social Security Act does not allow the reimbursement of administrative costs incurred by private nonprofit agencies. However, such costs are eligible for Federal financial participation under title IV-A if incurred by a public agency and under title XX if incurred by a private or public agency.

New York City contracts with private nonprofit agencies for foster family home and institutional placements. The private nonprofit agencies provide administrative services that typically are provided in other States, like California, as well as in New York counties by State social services agencies. These administrative services include foster family home placement activities, such as recruiting and training foster parents, visiting foster homes, and maintaining contacts with natural families.

Before 1975, New York City claimed administrative expenses incurred by private nonprofit agencies under title IV-A. Subsequently, legislation establishing title XX and modifying title IV-A language was passed making such private nonprofit agencies' administrative expenses allowable only under title XX. New York City, however, has continued to claim these expenses under title IV-A.

As a result of our inquiries, HHS officials have on two separate occasions (Oct. 1978 and May 1980) given us your Department's position regarding the legality of such claims. HHS has contended that the costs of staff services or other administrative activities of private nonprofit agencies should not be included in assistance payments for a needy foster care child and that Federal law and policy do not provide a basis for matching administrative costs of a nonpublic agency.

New York City officials told us that the city had been reimbursed for these administrative costs before fiscal year 1978. However, due to the nature of the accounting system in effect at that time, an estimate of the applicable amounts is not readily available. Furthermore, city officials advised us that New York City has been federally reimbursed about \$12 million annually for administrative costs of nonpublic agencies incurred in fiscal years 1979 and 1980.

Costs attributable to ineligible foster care enrollees were federally reimbursed

Another matter requiring action concerns Federal reimbursement for costs of foster care children who are ineligible for Federal reimbursement. The result of several HHS Audit Agency reports we reviewed showed rates of foster child care ineligibility in excess of 10 percent. Audits performed by HHS--although not directed at establishing the integrity of fiscal year 1978 reimbursements--indicated that some of the children enrolled as qualifying for Federal foster care reimbursement in New York and California both before and during the 1978 base year were ineligible. While only limited audit work was performed in fiscal year 1978, we believe

the incidence of ineligible enrollees in the two States may be indicative of similar problems in other States and reflect on the integrity of the base year data.

HHS Audit Agency efforts

We discussed the foregoing issues informally with HHS Audit Agency representatives in Washington, D.C. They informed us in a February 24, 1981, meeting that they have been and are continuing to audit fiscal year 1978 State reimbursements including administrative costs and foster child care eligibility. They agreed with the issues we raised and said that our recommendations were reasonable.

On March 12, 1981, the Acting Deputy Assistant Inspector General for Auditing sent a memorandum to all regional audit directors regarding a similar issue we had previously reported on dealing with Federal foster care reimbursements for ineligible guardianship children (HRD-81-7, Dec. 30, 1980). The regional audit directors were told that because of the provisions of Public Law 96-272, GAO believes action should be taken as soon as possible to reduce the 1978 base year payments for any overpayments that might exist in that year. Furthermore, the memorandum requested that every effort be made to initiate audits of foster care expenditures claimed by States before October 1, 1980, as soon as possible. These audits, however, were not to supersede currently scheduled priority work plan assignments, but were to be arranged as soon as scheduling permits.

CONCLUSIONS AND RECOMMENDATIONS

We believe that prompt action should be taken to audit the 1978 base year figure before the end of fiscal year 1981. Otherwise, millions of Federal dollars could be lost and could continue to be lost until the correct level of fiscal year 1978 Federal reimbursements is determined. Prompt action should also be taken to recover all costs determined to be unallowable.

We recommend that the Secretary of HHS

- Require that all foster care reimbursements to the States for fiscal year 1978 be audited to identify any unallowable costs, determine the correct level of fiscal year 1978 Federal reimbursements, and act to recover unallowable costs.
- Recover overpayments made to New York City for unallowable administrative costs.


In the event that your Department determines that sufficient time is not available before the end of the fiscal year 1981 to audit all foster care reimbursements for fiscal year 1978, your Department should ask the Congress to consider legislation which will defer the use of fiscal year 1978 as a basis for future allotments until all unallowable costs are expunged from the 1978 base year figure.

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As you know, section 236 of the Legislative Reorganization Act of 1970 requires the head of a Federal agency to submit a written statement on actions taken on our recommendations to the Senate Committee on Governmental Affairs and the House Committee on Government Operations not later than 60 days after the date of the report and to the House and Senate Committees on Appropriations with the agency's first request for appropriations made more than 60 days after the date of the report.

We are sending copies of this report to the Chairmen of the above-mentioned Committees and the Senate Committee on the Budget; the House Committee on Ways and Means; the Senate Committee on Finance; and the Director, Office of Management and Budget.

Sincerely yours,


Gregory J. Ahart
Director

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