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**Should Emergency Assistance for Needy Families Be Continued? If So, Program Improvements Are Needed. EAD-78-65; B-164031(3). April 5, 1978. 23 pp. + 4 appendices (11 pp.).**

**Report to the Congress; by Elmer B. Staats, Comptroller General.**

**Issue Area: Federally Sponsored or Assisted Income Security Programs: Eligibility Determinations (1307).**

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**Congressional Relevance: House Committee on Ways and Means; Senate Committee on Finance; Congress.**

**Authority: Social Security Act, as amended (P.L. 90-248; 81 Stat. 893; 42 U.S.C. 603(a); 42 U.S.C. 606(e)). =45 C.F.R. 233. Mandley v. Trainor, 545 F.2d 1062 (7th Cir. 1976).**

The Emergency Assistance Program, administered by the Social Security Administration of the Department of Health, Education, and Welfare (HEW), was established to provide financial assistance and social services to meet emergency needs of needy families with children under 21. The legislative history indicates that the Congress intended that the program would assist families without available resources and that the assistance would be necessary to meet an immediate emergency need that would not otherwise be met. Assistance may be in the form of cash or such items as food, clothing, rent, utilities, or medical care provided or paid for by the agency administering the program. Findings/Conclusions: Operation of the Emergency Assistance Program has been hindered because of conflicting interpretations of enabling legislation. The troublesome provisions pertain to recipients' eligibility and the type and extent of emergencies covered. As a result, participating States cannot rely on HEW instructions and interpretations, and because of this, at least four States have discontinued the program. Conflicts between HEW regional offices and the States often drag on for months because of a lack of HEW guidelines, uncertainties caused by litigation over the program, and insufficient HEW regional personnel to administer and monitor the program. Ten years after the program was enacted into law, HEW, the States, and the courts are still contesting the provisions of the law. Recommendations: The Secretary of HEW should: pursue efforts, through the Congress if necessary, to resolve the definitional and interpretational problems hindering the operation of the program, develop uniform guidelines for administering and monitoring the program, and monitor States' programs to insure compliance once definitive criteria and uniform guidelines are developed. The Congress should consider whether the Emergency Assistance Program should continue, and if it determines that

the program should continue, it should review the positions of HEW and the courts concerning eligibility and the type and extent of emergencies covered. It should then, if necessary, amend the legislation to clearly indicate congressional intent.  
(RBS)

951  
BY THE COMPTROLLER GENERAL

# Report To The Congress

## OF THE UNITED STATES

### Should Emergency Assistance For Needy Families Be Continued? If So, Program Improvements Are Needed

In fiscal year 1976, 25 States and the District of Columbia participated in the Emergency Assistance Program to provide temporary assistance to needy families with children. A lack of clear legislative intent has resulted in over 40 court cases involving disputes regarding the law and the intent of the Congress. This has adversely affected the operation of the program. In the near future the United States Supreme Court is expected to hand down a decision on the legislative intent.

This report primarily addresses problems caused by the legislation and GAO is recommending that the Secretary of HEW and the Congress resolve the problems of legal definitions and interpretations. GAO is also recommending that the Congress consider a basic issue: Should the Emergency Assistance program continue?



HRD-78-65

APRIL 5, 1978



COMPTROLLER GENERAL OF THE UNITED STATES  
WASHINGTON, D.C. 20548

B-164031(3)

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

This report discusses problems in operating the Emergency Assistance Program authorized by title IV-A of the Social Security Act. We reviewed the program to determine why so few States participate and to evaluate the administration of the program by the Department of Health, Education, and Welfare and by the States.

We made our review pursuant to the Budget and Accounting Act, 1921 (31 U.S.C. 53), and the Accounting and Auditing Act of 1950 (31 U.S.C. 67).

We are sending copies of this report to the Director, Office of Management and Budget, and to the Secretary of Health, Education, and Welfare.

A handwritten signature in black ink, reading "James A. Atchafalua".

Comptroller General  
of the United States

D I G E S T

The Emergency Assistance Program was authorized by the Congress in 1967 to financially assist States in providing temporary assistance in times of emergency to needy families with children. States may either provide cash or arrange for the provision of such items as food, clothing, rent, utilities, or medical care. The Federal Government pays half of the emergency assistance expenditures. (See p. 2.)

The Congress definition of emergency assistance has been subject to many different interpretations by the Department of Health, Education, and Welfare (HEW), the States, and the courts. This has hindered program operations seriously. The conflicts pertain to recipients' eligibility and the types and extent of emergencies covered. (See p. 3.)

These conflicts have led to a court decision that could significantly alter HEW's regulation and administration of the program. In November 1976 the U.S. Court of Appeals for the Seventh Circuit required HEW to draft new program regulations based on the court's interpretation of the enabling legislation and the intent of the Congress. The court ruled that HEW had improperly approved a State plan which was more restrictive than the law and the congressional intent. HEW does not agree with that interpretation and, in April 1977, filed a petition with the U.S. Supreme Court seeking a reversal. The U.S. Supreme Court agreed to hear the case and heard oral arguments on November 30, 1977. A decision is expected by June 30, 1978. (See p. 8.)

HEW's administration of the program has been adversely affected by conflicting court decisions and the lack of a definitive HEW policy. Adverse effects include lengthy delays in approving State plans necessitating retroactive approval and long-term disputes over the allowability of State expenditures. (See pp. 13 and 14.)

HEW has allowed the States wide latitude in developing their emergency assistance programs and has not developed uniform guidelines for approving and monitoring State plans. HEW's position has been that the Social Security Act permits a State to specify the emergencies it will cover, and that State programs need not cover every conceivable emergency. HEW, therefore, has approved a variety of plans--some containing restrictive provisions on eligibility and coverage, and others covering almost any emergency situation. (See app. I.)

One result of this policy has been about 40 court cases challenging the legality of State plans containing restrictions on eligibility and coverage. In some cases, the courts upheld the restrictions on eligibility and coverage; in others, they did not. As a result, States have found that they cannot rely on instructions and interpretations from HEW in determining what type of plan is permissible. The States have also found it difficult to operate the program because of conflicting court opinions. Faced with this situation, at least four States--Illinois, South Dakota, Vermont, and Wisconsin--have dropped out of the program. (See p. 4.)

Total program expenditures have increased over the years to \$66 million in fiscal year 1976 for 25 participating States and the District of Columbia. Seven States accounted for 87 percent of the expenditures and two of the seven--New York and Ohio--accounted for 50 percent. (See p. 1.)

As of September 1977, 30 States were not participating in the Emergency Assistance Program:

--Four primarily because of court cases directly or indirectly affecting their programs.

--Nine primarily because of problems they perceive in the enabling legislation or HEW regulations.

--Nine primarily because they are among 19 of the 30 States that provide emergency assistance under their own programs or under the special needs category of the Aid to Families with Dependent Children program.

--Eight primarily because they lack State matching funds. (See p. 10.)

Another result of HEW allowing the States wide latitude in developing their programs has been the multitude of questionable uses of emergency assistance funds. For example:

--New York made cash payments to supplement a State-funded welfare program without making eligibility determinations. (See p. 14.)

--Maryland spent most of its funds to provide furnishings and appliances in non-emergency situations. (See p. 15.)

--The District of Columbia provided temporary shelter to families and children for longer periods than allowed. (See p. 16.)

--Ohio provided cash payments in non-emergency situations. (See p. 17.)

HEW is responsible for taking timely and appropriate actions when it cannot

effectively administer a program because of problems in the enabling legislation. HEW has not done this. Ten years after the Emergency Assistance Program was enacted, HEW, the States, and the courts are still contesting the provisions of the law and the congressional intent. Due to its inaction, HEW now is faced with a court-imposed solution, which it opposes. (See p. 19.)

### RECOMMENDATIONS

The Secretary of HEW should:

- Pursue efforts, through the Congress if necessary, to resolve the problems of legal definitions and interpretations hindering program operations.
- Develop uniform guidelines for administering the program based on an appropriate definition of emergency assistance and in line with the U.S. Supreme Court's expected decision.
- Monitor States' programs on a continuing basis to insure compliance, once definitive criteria for emergency assistance and uniform guidelines are developed. (See p. 19.)

The Congress should consider whether the Emergency Assistance Program should continue because:

- In fiscal year 1976, seven States accounted for 87 percent of the program expenditures and two of the seven accounted for 50 percent.
- As of September 1977, 30 States were not participating in the program. Nineteen of them provided emergency assistance under their own programs or the special needs category of the Aid to Families with Dependent Children program and this was one reason they did not participate. Of the 19 States, 9 said that they did not

participate primarily because they provide emergency assistance by these other means.

If the Congress determines that the program should continue, it should review the positions of HEW and the courts, including the U.S. Supreme Court, concerning eligibility and the type and extent of emergencies covered. It should then, if necessary, amend the legislation to clearly indicate congressional intent. (See p. 20.)

### HEW COMMENTS

HEW said that it had submitted legislation to the Congress which should help to resolve the problems identified by GAO in this report and that it will develop guidelines and program monitoring consistent with any legislation that is enacted.

The proposed legislation would:

- Establish a separate emergency assistance program for national disasters or other occurrences of regional or national significance beyond a State's control. Federal participation in this new program would be at the 75-percent rate, rather than the 50-percent rate under the current program.
- Allow, under the current program, each participating State to define the scope of its program.

HEW said that it believes these provisions, including the increase in the matching rate for the new program, would clear up some of the administrative problems related to present difficulties and litigation. (See p. 21.)

GAO does not see what effect the increased matching rate for the new program would have on the problems identified in the current program. Furthermore, GAO does not believe that allowing the States to define the scope of their own programs would resolve the

problem of questionable uses of funds. Also, GAO believes that the Federal Government, rather than the States, should specify eligibility requirements and types of emergencies covered, unless the U.S. Supreme Court rules to the contrary. (See p. 22.)

Regarding GAO's recommendation that the Congress consider whether the program should continue, HEW said that it did not feel that any valid conclusions about the need for the program could be drawn based on the disproportionate participation in the program among the States. (See p. 22.)

GAO's recommendation is based not only on the disproportionate participation but more importantly on the fact that many States provide emergency assistance by other means. Nine States have chosen not to participate in the program primarily because they provide emergency assistance by these other means. Also, States have used program funds for nonemergency situations. GAO believes that, taken together, these facts provide a reasonable basis for either questioning whether the program should continue or examining whether emergencies exist that the States should cover but do not. (See p. 22.)

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ABBREVIATIONS

AFDC	Aid to Families with Dependent Children
GAO	General Accounting Office
HEW	Department of Health, Education, and Welfare

## CHAPTER 1

### INTRODUCTION

The Emergency Assistance Program was established by the 1967 amendments to the Social Security Act (Public Law 90-248, 81 Stat. 893) as an optional program under title IV-A of the act. The program provisions have been incorporated in sections 403(a)(5) and 406(e) of the act (42 U.S.C. 603(a)(5) and 606(e)), which became effective in January 1968. The program is administered by the Social Security Administration of the Department of Health, Education, and Welfare (HEW). <sup>1/</sup>

### PURPOSE OF THE PROGRAM

The program was established to provide financial assistance and social services to needy families with children under 21 to meet emergency needs. The Congress definition of emergency assistance has been subject to many different interpretations. The legislative history shows that the Congress intended that the program assist families without available resources and that the assistance provided be necessary to meet an immediate emergency need that would not otherwise be met. Assistance may be in the form of cash or such items as food, clothing, rent, utilities, or medical care provided or paid for by the agency administering the program.

### FEDERAL FINANCIAL PARTICIPATION

The Federal Government pays for 50 percent of the assistance provided and the related administrative costs. The Social Security Act limits the length of Federal financial participation to 30 days per family during any 12 months. In its regulations (45 C.F.R. 233.120), HEW interprets this to mean 30 consecutive days in any 12 consecutive months.

Federal and State expenditures for emergency assistance have increased since the program became effective in 1968. Fiscal year 1976 expenditures were about \$66 million, compared with \$40 million in 1973. In fiscal year 1976, 25 States and

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<sup>1/</sup>The program was formerly administered by the Social and Rehabilitation Service, which was abolished in March 1977.

the District of Columbia participated in the program, providing emergency assistance to more than 300,000 families. Seven of these States--New York, Ohio, Michigan, Massachusetts, Maryland, Minnesota, and Washington--accounted for 87 percent of the expenditures and 79 percent of the families receiving assistance. New York and Ohio alone accounted for 50 percent of the expenditures and 43 percent of the families. (See app. II.)

### STATE PLAN REQUIREMENTS

To receive Federal funds, States must include emergency assistance in their plans for the Aid to Families with Dependent Children (AFDC) program. Federal regulations require that State plans specify (1) the eligibility conditions, (2) the emergency needs to be met, (3) the services to be provided, (4) whether emergency assistance will be provided to migrant workers with families and, if so, whether assistance will be available to such families statewide, and (5) that emergency assistance will be given without delay.

### PROGRAM ADMINISTRATION

HEW regional offices are responsible for reviewing and approving States' AFDC plans. A designated agency in each State either administers the program or supervises program administration by county or city welfare agencies.

### SCOPE OF REVIEW

Our review included an analysis of Public Law 90-248, its legislative history, and HEW regulations pertaining to the program. We also reviewed decisions by various State and Federal courts and the accompanying court documents for those cases which affected the administration of the program, State program plans, case files, and other program documents and reports.

We interviewed officials at HEW headquarters and at HEW regional offices in New York, Philadelphia, and Chicago; State and county officials responsible for administering the program in New York, Maryland, and Ohio; and the Department of Human Resources officials responsible for the program in the District of Columbia.

We also contacted officials in 30 States that were not participating in the program as of September 1977 to obtain their reasons for not participating.

## CHAPTER 2

### PROBLEMS IN INTERPRETING THE ENABLING LEGISLATION

Operation of the Emergency Assistance Program has been seriously hindered because of conflicting interpretations of the enabling legislation by the Department of Health, Education, and Welfare; by the States; and by various State and Federal courts. The troublesome provisions pertain to recipients' eligibility and the type and extent of emergencies covered. As a result, participating States cannot rely on HEW instructions and interpretations, and because of this at least four States have discontinued the program. Recently, by court action, HEW was required to draft new emergency assistance regulations based on an interpretation of the enabling legislation that it opposes. In April 1977 HEW filed a petition with the U.S. Supreme Court, seeking a reversal of the court decision. The Supreme Court agreed to hear the case and heard oral arguments on November 30, 1977. A decision is expected by June 30, 1978.

### CONFLICTING INTERPRETATIONS OF THE ENABLING LEGISLATION

The Social Security Act (42 U.S.C. 606(e)) provides for emergency assistance to needy families with children under 21 and without available resources. The payments, care, or services provided must be necessary to avoid destitution of the child or to provide living arrangements for the child in the home.

In its implementing regulations, HEW has allowed the States wide latitude in determining eligibility and the types of emergencies that would be met. HEW's position has been that the act permits a State to specify the eligibility criteria and the emergencies it will cover, and that State programs need not cover every conceivable emergency. Therefore, HEW has approved State plans which have restricted eligibility and coverage.

Many recipients and groups have challenged these restrictive provisions in the courts. Since the program began in 1968, there have been about 40 cases in State and Federal courts involving 9 State plans approved by HEW. In some cases, the courts struck down the restrictive provisions. In these cases, the courts did not accept HEW's interpretation and ruled that States cannot restrict eligibility and coverage, but in other cases courts upheld the restrictive provisions.

## EFFECTS OF CONFLICTING INTERPRETATIONS

According to HEW, the various court cases have seriously hindered its administration of the program. HEW says States can neither rely on its instructions and interpretations nor operate a program based on conflicting court opinions. This position is supported by the following excerpts from a January 1976 letter to the Secretary of HEW from the secretary of Wisconsin's Department of Health and Social Services commenting on Wisconsin's withdrawal from the program. 1/

"The states find themselves in an impossible situation in which they are by virtue of court cases prohibited from defining the circumstances which constitute an emergency and at the same time the Department of Health, Education, and Welfare has not made such a definition."

\* \* \* \* \*

"In short a state proceeds at its peril \* \* \* if it chooses to have a federal emergency assistance program. This is unfair to state legislatures which must have some reasonable expectation of the scope and cost of an emergency assistance program before it can responsibly approve such a program.

"The only remaining alternatives for the states are to have state and local units of government fund their own emergency assistance programs or for persons in need to go wanting. Neither of these alternatives is consistent with the broad intent of Congress to assist states in funding an emergency assistance program."

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1/Illinois, South Dakota, and Vermont have also withdrawn from the program because of court decisions directly or indirectly affecting their States' plans.

The Wisconsin secretary requested that the Secretary of HEW support an effort to arrive at an appropriate definition of emergency assistance.

#### EFFORTS TO RESOLVE CONFLICTS

In August 1975 the HEW General Counsel reviewed major court rulings to determine whether they provided any guidance on how HEW might regulate the program. In the cases reviewed, the General Counsel found no flexibility in the following areas:

- The courts viewed the Social Security Act as prohibiting States from narrowing the eligibility criteria and found nothing in the act or legislative history to support the view that States can limit the types of emergency situations covered.
- The courts ruled that the Emergency Assistance Program may not be limited to emergencies resulting from fire, flood, or natural disasters.

The General Counsel found that the rulings were flexible on whether:

- States have the option of participating in the program.
- States can include migrant workers with families throughout the State or only in parts of the State.
- States may specify the types of assistance they will provide (for example, money payments, payments in kind, or other such payments as the State may specify).
- States may choose the level of benefits they will provide.

HEW's General Counsel concluded that the courts had not provided any helpful guidance to regulate the program and advised that any new regulations developed must be based on sound empirical evidence and the most carefully considered administrative judgment. The General Counsel also noted that any new regulations in this area will immediately be subject to intense litigation.

THE ILLINOIS COURT CASE AND POTENTIAL  
EFFECT ON THE PROGRAM

In November 1976 HEW was ordered by the U.S. Court of Appeals for the Seventh Circuit to issue new regulations. Mandley v. Trainor, 545 F. 2d 1062 (7th Cir. 1976). The ruling resulted from litigation involving the Illinois State plan approved by HEW. As in other cases, the court ruled against the State's and HEW's interpretations of the emergency assistance provisions of the Social Security Act. However, in this instance, it went a step further and ordered HEW to draft new regulations conforming to the court's interpretation of the law and of congressional intent. HEW opposes this decision and, because of the major importance of this case, is seeking to have the decision overturned in the U.S. Court.

The initial Illinois State plan for emergency assistance was not approved by HEW because the provisions for eligibility and coverage were considered too general. Following HEW's advice, Illinois revised its plan and resubmitted it in 1973. The revised plan, approved on June 20, 1974, limited emergency assistance to AFDC recipients and eligible applicants who:

- Are homeless because damage, such as from fire, left their homes unlivable.
- Are potentially homeless because of damage to a portion of their homes.
- Face a court-ordered eviction for reasons other than failure to pay rent.
- Are in emergency need of clothing and/or household furnishings and equipment.

In 1974 a group of AFDC recipients brought suit against Illinois and HEW in the U.S. District Court for the Northern District of Illinois challenging the validity of the eligibility and coverage restrictions of the Illinois program. The court ruled that the State's program was valid. The AFDC recipients appealed this decision, and in September 1975 the U.S. Court of Appeals for the Seventh Circuit ruled that the Illinois program wrongly established eligibility standards narrower than those in section 406(e) of the

Social Security Act. The court found that (1) the State program provided assistance only to persons whose emergency needs resulted from four limited types of crisis situations and (2) no emergency assistance was provided for families who were not AFDC applicants or recipients. Mandley v. Trainor, 523 F. 2d 415 (7th Cir. 1975). Specifically, the court ruled that:

- A State program which restricts eligibility beyond congressional intent is invalid because it is inconsistent with and therefore violates the Social Security Act.
- All children who fall within the definition of section 406(e) of the act are eligible for emergency assistance.
- The pertinent provisions of the act cannot be construed as describing what is provided rather than who is covered.
- While the legislative history is not conclusive of congressional intent, it does show that (1) there is no specific indication that the Congress intended the States to be able to narrow the eligibility criteria and (2) the Congress is concerned with the emergency needs of children in situations other than those recognized in the Illinois program.
- Without clear direction by the Congress, it is difficult to perceive the justification for HEW's allowing States to set eligibility criteria. (45 C.F.R. 233.120.) The court observed that this was not the first time that HEW had sought discretion for the States not intended by the Congress and that it was not proper to rely heavily on the administrative interpretation of section 406(e).

The case was remanded to the district court for appropriate action.

HEW was prepared to appeal the above decision to the U.S. Supreme Court, but Illinois abandoned its program in November 1975 and sought to provide the same emergency assistance under

the special needs category of its AFDC program. <sup>1/</sup> Because Illinois dropped the program, HEW filed for dismissal of the case in the district court which was granted in July 1976. However, the AFDC recipients appealed the dismissal of their suit, and the court of appeals reversed the decision to dismiss the suit in November 1976. Mandley v. Trainor, 545 F. 2d 1062 (7th Cir. 1976.) The court noted that Illinois planned to provide, under section 403(a)(1) of the Social Security Act--AFDC special needs--assistance identical in substance to that formerly provided under section 406(e)(1) of the act--the Emergency Assistance Program. The court ruled that Federal funds for emergency assistance can be provided only under section 406(e)(1) of the act. According to HEW, 45 States provide for special needs in their AFDC State plans and could be affected by this ruling. (See p. 9.)

The court of appeals also required HEW to draft new regulations for the Emergency Assistance Program, conforming to the court's judgment. In compliance with the November 23, 1976, court judgment, HEW submitted proposed regulations to the U.S. District Court for the Northern District of Illinois on February 22, 1977.

#### HEW'S PETITION TO OVERTURN U.S. COURT OF APPEALS RULINGS IN ILLINOIS CASE

Required by court order to draft regulations based on court rulings it disagreed with, HEW filed a petition with the U.S. Supreme Court seeking a reversal of the court of appeals' rulings. On June 6, 1977, the Supreme Court agreed that it would hear the case. Oral arguments were heard on November 30, 1977. A decision is expected to be handed down by June 30, 1978.

In its April 1977 petition, HEW contended that the court of appeals abused its authority by (1) ordering nationwide relief (new regulations) on behalf of a statewide class, for example, the Illinois respondents, and (2) prohibiting

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<sup>1/</sup>Special needs are those needs recognized by States as essential for some but not all AFDC recipients. AFDC recipients' monthly grants may be increased if they have special needs as determined by the States. Some States provide special needs assistance similar to emergency assistance. Examples include emergency child care in Iowa and emergency needs arising from catastrophies in Rhode Island.

reimbursements to States for emergency aid classified as special needs under the AFDC program.

HEW claims that the court erred in its interpretation of the emergency assistance eligibility and coverage provisions of the Social Security Act, and the decision may invalidate many State plans that do not conform to the court's interpretation. According to HEW, such States would be required to either terminate their emergency assistance programs or expand coverage (which may be prohibitively costly). 1/

In addition, HEW claims that it has authority under section 403(a)(1) of the Social Security Act to reimburse States for emergency aid classified as special needs under the AFDC program. HEW noted that 45 States include special needs items in their State plans and, unless the court decision is reversed, Federal assistance for special needs items may be reduced or terminated.

We noted that at least seven States provide special needs assistance similar to emergency assistance. Two of these States also have an Emergency Assistance Program; the other five do not. Examples of emergency assistance provided to cover special needs include emergency child care in Iowa and replacement of clothing lost in a fire, flood, or other catastrophe in New York. One of the seven States, Rhode Island, discontinued its Emergency Assistance Program in 1973 because it found the program to be of limited use. According to a State official, the special needs assistance covered almost any need imaginable; therefore, for AFDC recipients the Emergency Assistance Program was not considered necessary.

HEW does not require the States to compile cost information for the special needs assistance provided. Thus, we could not compare the cost of special needs to the cost of emergency assistance.

HEW concluded that the Illinois case presents questions of major importance to the administration of both the AFDC program and the Emergency Assistance Program.

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1/In 1975 HEW grouped approved State plans into three categories--narrow, limited, and broad. Presumably, the narrow and limited plans would be most affected by the ruling. (See app. I for HEW's analysis of the State plans.)

REASONS 30 STATES DO NOT PARTICIPATE  
IN THE PROGRAM

As discussed previously, Illinois, South Dakota, Vermont, and Wisconsin have withdrawn from the program because of court cases directly or indirectly affecting their programs. We contacted officials in 26 other States which were not participating in the Emergency Assistance Program as of September 1977 to obtain their reasons for electing not to participate. The primary reasons given were as follows.

1. Alabama: The State would participate if the Federal Government would pay a higher percentage of program costs. The State has an emergency "temporary aid program."
2. Alaska: The State terminated its program in January 1975 because (1) it believed the Federal program was impractical to administer and (2) most emergency needs were being met under other programs such as Indian aid programs and the State's own emergency assistance program.
3. Arizona: The eligibility criteria in the Federal law is too broad. The State has its own emergency assistance program.
4. Arkansas: The State lacked matching funds.
5. California: The eligibility criteria in the Federal law is too broad. Eligibility is not limited to AFDC recipients. The State has an emergency assistance program for AFDC recipients.
6. Colorado: The eligibility criteria in the Federal law is too broad. The Federal law does not define emergencies. The State objects to assistance being limited to 30 days once in 12 months. Counties provide general assistance which would cover emergencies.

7. Connecticut: The State temporarily terminated its program in May 1977 when its matching funds were exhausted but plans to participate again in the future.
8. Florida: The eligibility criteria in the Federal law is too broad. State legislature feared great masses of people would be eligible. State has an emergency assistance program for victims of hurricanes and floods.
9. Georgia: The State lacked matching funds.
10. Hawaii: The State provides for emergency assistance under the special needs category of the AFDC program.
11. Idaho: Counties have their own emergency assistance programs and do not want to give up control of their programs.
12. Indiana: Local governments provide emergency assistance.
13. Iowa: Each county provides emergency assistance.
14. Louisiana: The State lacked matching funds.
15. Maine: The Federal program would be too costly to administer. Local governments provide emergency assistance with State and local funds.
16. Mississippi: The State lacked matching funds.
17. Missouri: The State lacked matching funds.
18. Nevada: Federal welfare programs have confusing and vague regulations. Counties provide emergency assistance with State funds. State wants to control its own program.
19. New Hampshire: Opposed to assistance being limited to 30 days once in 12 months.

Local governments provide emergency assistance with State funds.

20. New Mexico: Discontinued the Federal program in 1970 because it became too costly. Also, the program is not very helpful because assistance is restricted to 30 days once in 12 months.
21. North Carolina: The State lacked matching funds.
22. North Dakota: Each county provides emergency assistance. State lacks funds to participate in Federal programs.
23. Rhode Island: The eligibility criteria in the Federal law is too broad--anyone appears eligible for almost any kind of assistance. The State terminated its program in 1973 because it provides for AFDC recipients' emergencies under the special needs category of the AFDC program.
24. South Carolina: Counties already provide emergency assistance.
25. Tennessee: The Federal law is too general in defining an emergency. Also, objects to assistance being limited to 30 days in 12 months.
26. Texas: Providing emergency assistance is left up to the counties.

In summary, 9 of the 26 States are not participating primarily because of problems they perceive in the enabling legislation and HEW regulations; 9 primarily because they are among the 19 States that provide for emergency assistance under their own programs or the special needs category of AFDC; and 8 primarily because they lack State matching funds.

## CHAPTER 3

### PROBLEMS IN ADMINISTERING AND MONITORING THE PROGRAM

Without definitive Department of Health, Education, and Welfare policy and guidelines for administering and monitoring the Emergency Assistance Program, it is not surprising that HEW regional offices and State agencies have conflicting interpretations and frequent disputes over the allowability and use of emergency assistance funds. The conflicts and disputes often drag on for months and years due to (1) the lack of HEW guidelines, (2) the uncertainty caused by the litigation discussed in chapter 2, and (3) insufficient HEW regional personnel assigned to administer and monitor the program.

#### ADMINISTRATIVE PROBLEMS

In each of the three HEW regions included in our review--New York, Philadelphia, and Chicago--the definition problems have caused delays in approving State plans and resolving questions or problems associated with the plans. Also, large backlogs of State plans for review, a lack of personnel, and the low priority given the program by HEW have contributed to delays and the lack of timeliness in resolving day-to-day problems. For example, an amendment to Maryland's State plan submitted to HEW's Philadelphia Regional Office in February 1974 was not approved until April 1976--over 2 years later. HEW made the effective date of the amendment retroactive to July 1, 1974. Similarly, Ohio's State plan submitted in January 1974 was not approved by the HEW Chicago Regional Office until March 1975--over a year later. The effective date was made retroactive to October 1, 1974.

Monitoring of State programs by HEW regions has generally consisted of limited reviews of States' quarterly expenditure reports. According to HEW regional personnel, limited staffing precludes more indepth reviews. For example, the HEW Philadelphia Regional Office staff responsible for administering emergency assistance and other programs in five States and the District of Columbia consisted of two persons from 1970 until September 1974, at which time it was increased to four.

The HEW Audit Agency has reviewed several State programs. These reviews disclosed significant questionable

or disputed uses of emergency funds. As a result, HEW questioned or disallowed some States' expenditures. However, due to the conflicting interpretations of the Social Security Act, Federal regulations, and State plan provisions, some of the disputed claims have been outstanding for several years, such as a New York claim for reclassified "home relief"<sup>1/</sup> cases. This dispute and other questionable uses of emergency assistance funds that we found are discussed in the following pages.

### DISPUTED OR QUESTIONABLE USES OF EMERGENCY ASSISTANCE FUNDS

Generally, the largest users of emergency assistance funds use the program as a source of Federal funds to supplement various Federal and State public assistance programs. Among these States are New York, Ohio, Maryland, and the District of Columbia. All are large users of emergency assistance funds and together accounted for \$39.3 million, or 59 percent, of the total program expenditures in fiscal year 1976.

#### New York

New York is the Nation's largest user of Federal emergency assistance funds, with New York City accounting for most of its expenditures. The city used the funds for a variety of purposes, principally to supplement a State-funded home relief program, provide institutional care of children, and help relocate families. These three categories accounted for \$17 million of the \$28 million (combined Federal, State, and local funds) spent by New York City for emergency assistance in calendar year 1975.

Since June 1975 HEW and the State have been in disagreement over using emergency assistance funds for home relief. The disagreement stems from a State directive issued in December 1971, instructing local welfare agencies to maximize Federal reimbursement by identifying home relief families eligible for Federal emergency assistance. In June 1975 the HEW Audit Agency reported that from December 1971 through September 1974, New York City improperly reclassified home relief expenditures totaling about \$17 million (Federal share) as emergency assistance.

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<sup>1/</sup>Home relief is a State-funded program similar to AFDC for those people who do not qualify for AFDC.

The Audit Agency took exception to the reclassification because it was done by means of a computer program and individual case reviews were not made to determine if emergency or crisis situations actually existed. HEW disallowed the claim for the \$17 million. The State has disputed and continues to dispute HEW's position, claiming that the ambiguities inherent in the Federal regulations mitigate against HEW's retroactive sanctions. New York officials, however, informed HEW in August 1976 that the State would comply in the future with HEW's interpretation to avoid conflicts over emergency assistance claims.

HEW also plans to look into possible improprieties in New York's use of funds for institutional care of children and relocation of families. In late 1974 and early 1975, the HEW Audit Agency made preliminary surveys of New York City's emergency assistance claims for institutional care of children and family relocation expenses and found indications of questionable claims. The Audit Agency concluded that 11 of 13 claims it reviewed, for which the Federal share was more than \$10 million, did not meet Federal eligibility criteria because the records did not indicate an emergency situation existed. As a result, the Agency was to make a full scale review of New York City's claims for institutional care.

In its survey of the city's relocation claims, the Audit Agency questioned the propriety of paying bonus and relocation allowances to families displaced by fire or a vacate order when they had found a new apartment or home on their own. The Agency plans to begin a full scale review of these claims in the near future.

### Maryland

Maryland's expenditures for emergency assistance in calendar year 1975 totaled \$4.6 million (combined Federal, State, and local funds). Most of the expenditures were to provide AFDC recipients with furnishings and appliances--beds, sheets, rugs, towels, refrigerators, stoves, etc. Caseworkers justified these expenditures by stating that they were necessary to bring the recipients' homes up to "agency standards," although no such standards existed. This practice was questioned by HEW in 1974, by a private consulting firm in 1975, and more recently by the State legislature in 1976.

In March 1974 HEW's Philadelphia Regional Office reported that about 95 percent of the emergency assistance payments in Baltimore were for nonemergency situations to bring AFDC homes up to "agency standards." HEW noted, however,

that neither Maryland nor Baltimore had established any standards for AFDC recipients' homes. HEW recommended that the State review and evaluate all expenditures to determine if payments were proper and that it issue guidelines to clearly establish what can be included under emergency assistance.

In February 1975, a private consulting firm reported to the State that 96 percent of Maryland's emergency assistance funds were being spent for appliances. It also recommended that the definition of emergency assistance be redefined.

In April 1976 two Maryland legislative committees reported that information supplied during hearings indicated that the majority of Maryland's emergency assistance funds were being spent for furnishings and appliances, and that less than 10 percent of the funds were being spent for emergencies arising from such circumstances as

- lack of food, fuel, or shelter;
- evictions; and
- natural disasters, such as fire, flood, or tornado.

As a result of the legislative hearings, the State Department of Human Resources agreed to revise the program rules and regulations to preclude routine grants for furnishings and appliances.

The program revision, effective June 8, 1977, restricted furnishings and appliance grants to cases involving actual emergencies, such as fire. Maryland submitted a revised State plan, under which it had operated after June 8, 1977, to the HEW Philadelphia Regional Office on June 28, 1977. On January 18, 1978, a regional official said that HEW had disapproved the plan but that the State is disputing the disapproval because of the U.S. Court of Appeals ruling in the Mandley versus Trainor court case in Illinois. (See p. 8.)

#### District of Columbia

The District uses emergency assistance primarily to provide temporary shelter for families and children. In 1975 about 75 percent of the District's total expenditures of \$12 million were for operating its two shelter programs-- y Shelter and Emergency Foster Homes.

The District maintains apartments to provide emergency shelter for families evicted or homeless, or destitute for other reasons. Children are placed in emergency or short-term foster care facilities. Under both programs the District claims all the costs of operating the shelters regardless of the number of families or children served. We also noted that the District did not determine the cost of assistance provided to an individual family or child. Furthermore, according to District officials, the Emergency Foster Homes program costs--accounting for about 44 percent of total 1975 expenditures--are claimed as emergency assistance rather than foster care or social services because:

- The program's administrative costs cannot be claimed under foster care but can be claimed under emergency assistance.
- There is a limit on social services costs that States can claim for 75-percent Federal funding. Excluding "emergency assistance," the District's claim for social services is the maximum amount allowable.

Under both programs, the District, contrary to Federal law and regulations, provided assistance for periods longer than 30 days. During 1975 about 20 percent of the families and 62 percent of the children were provided shelter for periods longer than 30 days--some for 90 days or more.

We brought our findings to the attention of HEW policy officials who agreed with us that the District should determine and claim only the costs of providing assistance to individual families or children, rather than claiming the total costs of operating the shelters. They also agreed that the costs claimed for periods beyond 30 days appear unallowable. We also discussed our findings with District officials who said they would review them, and if they agreed with us, take appropriate corrective action.

### Ohio

Ohio is one of the seven largest users of emergency assistance funds. About 15 percent of its calendar year 1975 expenditures of \$15.2 million were for medical

expenses and the rest were for such expenses as food, utilities, and clothing. By October 1976 Ohio's medical expenses had risen to over 30 percent of its total expenditures, making it the Nation's largest user of emergency assistance funds for medical expenses. In 1976 Ohio accounted for over two-thirds of the Nation's emergency assistance funds used for medical services.

Because of Ohio's increased use of emergency assistance funds for medical services, HEW's Chicago Regional Office in late 1976 reviewed the State's program plan which it had approved earlier. It questioned the plan because it contained provisions that medical emergency expenses could be commingled with Ohio's State-funded general relief program expenses. The regional office considered retracting its approval of these provisions. After considering the State's objections, however, the regional office decided to continue to approve expenditures under these provisions. Even though the region had reservations about the prior approval, it made no further effort to require the State to amend the plan.

We noted that Cuyahoga County--the State's largest user of emergency funds--was routinely providing emergency payments to welfare recipients for such items as utilities and clothing. We reviewed 47 case files and found no evidence that an emergency or crisis situation existed. Moreover, in 25 of the cases the recipients received an emergency assistance grant in 2 or more consecutive years. In effect, the funds were being used to supplement continuing programs, such as AFDC. County caseworkers and State and HEW officials have differing opinions as to whether this is proper. Those supporting the practice claim that families living at or near the poverty level have continuous emergency needs. Others claim the program was not intended to routinely supplement existing programs.

## CHAPTER 4

### CONCLUSIONS AND RECOMMENDATIONS

#### CONCLUSIONS

Due to the conflicting interpretations of the enabling legislation by the Department of Health, Education, and Welfare, by the States, and by the courts, there is no clear definition of emergency assistance, and the States have no guidelines on which to rely in establishing and operating emergency assistance programs. The numerous resulting problems have caused some States to drop out of the program. Others have found themselves involved in disputes over questionable uses of funds which are not easily resolved.

HEW is responsible for taking timely and appropriate actions, including seeking clarifying legislation, if necessary, when serious problems occur in implementing programs authorized by the Congress. Ten years after the Emergency Assistance Program was enacted into law, HEW, the States, and the courts are still contesting the provisions of the law and the congressional intent in establishing the program.

This continuing conflict has seriously hindered HEW's and the States' operation and administration of the program. Due to its inaction, HEW is now faced with a court-imposed solution which it opposes. The court decision, which HEW has appealed to the U.S. Supreme Court, may require changes not only in how HEW regulates and administers the Emergency Assistance Program but also in how it regulates and administers other aspects of the Aid to Families with Dependent Children program, especially the special needs category.

#### RECOMMENDATIONS TO THE SECRETARY OF HEW

The Secretary of HEW should:

- Pursue efforts, through the Congress if necessary, to resolve the definitional and interpretational problems hindering the operation of the Emergency Assistance Program.
- Develop uniform guidelines for administering and monitoring the program based on an appropriate

definition of emergency assistance and in line with the U.S. Supreme Court's expected decision.

--Monitor States' programs on a continuing basis to insure compliance, once definitive criteria for emergency assistance and uniform guidelines are developed.

### RECOMMENDATIONS TO THE CONGRESS

The Congress should consider whether the Emergency Assistance Program should continue because:

--In fiscal year 1976, 7 States accounted for 87 percent of the program expenditures and 2 of the 7 accounted for 50 percent of the total.

--As of September 1977, 30 States were not participating in the program. Nineteen of them provided emergency assistance under their own programs or the special needs category of the Aid to Families with Dependent Children program and this was one reason they did not participate. Of the 19 States, 9 said they did not participate primarily because they provide emergency assistance by these other means.

If the Congress determines that the program should continue, it should review the positions of HEW and the courts, including the U.S. Supreme Court, concerning eligibility and the type and extent of emergencies covered. It should then, if necessary, amend the legislation to clearly indicate congressional intent.

## CHAPTER 5

### HEW COMMENTS AND OUR EVALUATION

In a letter dated January 18, 1978 (see app. III), HEW said that

- it had submitted legislation to the Congress which it believes should help resolve the problems identified in our report and
- it would develop guidelines and program monitoring consistent with any legislation that is enacted.

We reviewed the proposed legislation that HEW submitted to the Congress on September 20, 1977. The legislation had not been introduced as of January 31, 1978. The draft bill would establish a new separate emergency assistance program for Presidentially declared national disasters or other occurrences of regional or national significance beyond the States' control. Federal financial participation in the new program would be at the 75-percent rate. At other times, however, the current program would remain substantially the same, except that each participating State would be allowed to define the scope of its program. Each State would be able to prescribe the categories of needy families with children that could participate and the types of emergencies under which a family could be eligible for assistance.

HEW said that it believes these provisions, including the increase in the matching rate for the new program, would clarify some of the administrative problems related to present difficulties and litigation.

We agree that the proposed legislation should help reduce the number of lawsuits over eligibility and emergencies covered because it would authorize the States to establish their own criteria. For this same reason, it may also help HEW in its State plan approval process. We do not, however, see what effect the increased matching rate for the new program would have on the problems we identified in the current program. Furthermore, we do not believe that allowing the States to define the scope of their own programs would resolve the problems of questionable uses of funds.

The draft bill would merely put into law the policy that HEW has followed--that is, allowing States to specify

eligibility criteria and emergencies covered. It has been this policy which led to the problems identified in our report, including the multitude of questionable uses of emergency assistance funds.

In our opinion, if the program is to continue it would be better for the Federal Government, rather than the States, to specify eligibility requirements and types of emergencies covered, unless the U.S. Supreme Court rules to the contrary. We believe that the Federal Government should establish uniform parameters because (1) the wide variation in eligibility and types of emergencies covered in existing State plans resulted in many lawsuits and (2) the lack of uniform Federal criteria for types of emergencies covered was one of the reasons for disputes over the allowability and use of emergency assistance funds.

On other matters, HEW said that we suggested that the Congress consider whether the program should continue because of

- the small number of States that accounted for 87 percent of the program expenditures,
- the number of States that have chosen not to participate in the program, and
- the apparent abuses discovered in the administration of the program in some States.

HEW said that it does not believe that any valid conclusions about the need for the program can be drawn based on the disproportionate participation among the States.

The apparent abuses we found in the States were not one of the reasons we gave for our suggestion that the Congress consider whether the program should continue. However, abuses, such as providing assistance in nonemergency situations, indicate that the funds are not needed for emergencies, unless emergencies exist that States should cover but do not. We also gave another reason on which HEW did not comment-- that 19 of the 30 States not participating in the program provided emergency assistance by some other means. These 19 States apparently believe that the other means of meeting emergency needs are better for them than the title IV-A Emergency Assistance Program which, according to HEW, will not be significantly changed by the proposed legislation. Furthermore, in its appeal to the U.S. Supreme

Court, HEW has argued that States may provide emergency assistance by means of the special needs provision of the AFDC program.

Based on the reasons given, we still believe that the Congress should consider whether the program should continue.

HEW'S 1975 ANALYSIS OF STATE PLANS

(note a)

HEW's analysis of State plan provisions for emergency assistance showed that States have used varying degrees of specificity in defining emergencies for which they give assistance. According to HEW, the plans fall into three general categories--narrow, limited, and broad--with Illinois' plan being used as the basis for comparison. Illinois' plan limited eligibility and coverage to AFDC recipients and eligible applicants who (1) are homeless because damage to their homes made them unlivable, (2) are potentially homeless because of damage to a portion of their homes, (3) face court-ordered eviction for reasons other than failure to pay rent, or (4) are in emergency need of clothing and/or household furnishings and equipment.

NARROW

Four States were categorized as having very narrow criteria to determine what situations constitute emergencies and as having programs even more limited than that of Illinois.

- "CONNECTICUT: Payment of utility bills.
- "PENNSYLVANIA: Emergencies arising as a direct result of a civil disorder which cannot be met through applicant's available resources \* \* \* Emergency assistance is available to needy persons in areas of the State declared to be disaster areas.
- "SOUTH DAKOTA: Natural catastrophes or disasters including but not limited to fire, flood, snow, dust or wind storm, tornado, or earthquake.

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a/State includes the 25 States, the District of Columbia, Puerto Rico, and the Virgin Islands which had plans in effect in 1975 when HEW made its analysis.

"UTAH: Emergent need due to some act of nature over which the parent or relative has no control."

LIMITED

Eight States were categorized as having programs that specifically limit the types of emergencies covered. According to HEW, the scope of these State plans is essentially limited either in a manner similar to the Illinois plan or in a slightly different way.

- "ARKANSAS: A crisis must exist because of fire, tornado, flood, accident, dispossession for failure to pay rent; without utilities because of inability to pay due to illness, accident, or other disaster.
- "KANSAS: Limited to a natural disaster; to potential eviction; to utility turn-off or prevention of utility discontinuance; and energy conserving repairs for a client-owned home.
- "KENTUCKY: Destitution must be directly related to unforeseen crises resulting from natural disaster, civil disorders, illness, accident, death, desertion, or imprisonment.
- "MARYLAND: Lack of food, fuel, and shelter prior to determining eligibility for public assistance, fire; civil unrest; theft of possessions or money; complete breakdown or lack of essential appliances and furnishing for those receiving public assistance; eviction by physical put out or issuance of court order; stranded away from home; danger of losing space in public housing or private projects that receive rent supplement payments from the Federal Government.

**"MASSACHUSETTS:**

Losses and damages which are a direct result of material disasters; fires or floods which aren't destructive acts of nature but are beyond the control of the family; appliance repair or replacement (if not owned by the landlord and a service person's written statement indicates that it is warranted); shelter; arrearages paid in cases of eviction or foreclosure; fuel and utility arrearages paid; storage and moving expenses (within certain limits); child's bedding upon birth of child.

**"NEW JERSEY:**

A substantial loss of shelter, food, clothing or household furnishings by fire, flood, or other natural disaster; or an emergent situation over which the recipient had no control or opportunity to plan in advance and as a result of state of homelessness exists or is manifestly imminent.

**"OHIO:**

Any non-deferrable need such as food, clothing or medical care; immediate need due to wage garnishment, victims of crime or violence, natural disaster, or civil disorder.

**"VIRGINIA:**

A natural disaster, fire or vandalism (reported to police); loss of employment by member of child's family with whom he is living; eviction or threat of eviction with receipt of written notice of family not currently receiving assistance."

**BROAD**

Fifteen States were categorized as having very broad concepts of what constitutes an emergency and their plans

contain open-ended provisions under which almost any emergency appears to be covered.

- "DISTRICT OF COLUMBIA: Destitution or lack of living arrangements for a child, natural disorders, eviction, school checks.
- "MICHIGAN: An unforeseen combination of circumstances which creates hardship and prevents adequate care of children; a threat to the health and safety of the child.
- "MINNESOTA: Crisis which, if not resolved, will result in severe hardship to children; places one or more persons in jeopardy; cannot be resolved by current resources; natural disasters, civil disorder; strikes, illness, accident, death; threat of eviction.
- "MONTANA: Major occurrences which arise that are beyond the control of the family. Major occurrences may include, but are not limited to, events such as fire, flood, earthquake, violent storms and droughts, civil disorders, strikes, illness, accident or death, eviction, migrants who are destitute.
- "NEW YORK: Natural disasters; serious injury to persons or damage to property; discontinuance or suspension of AFDC where a fair hearing has been requested; situation which suddenly renders a family destitute or homeless; mass emergencies, but not limited to above.
- "OKLAHOMA: Destitution resulting from an emergency or crisis situation such as: 1) loss of employment,

2) illness, 3) natural or man-made disaster, 4) loss of a relative who has been responsible for support and for care, 5) garnishment of wages or 6) foreclosures from which essential income is divided.

- "OREGON: Situation in which immediate action is necessary to prevent destitution or to provide living arrangements for a needy child or family where these emergencies cannot be adequately met through any other agency or community resources.
- "NEBRASKA: Crisis situations threatening an eligible family. Immediate need which would not otherwise be met.
- "PUERTO RICO: Destitution or lack of living arrangements.
- "VERMONT: Destitution or lack of living arrangements.
- "VIRGIN ISLANDS: Destitution or lack of living arrangements.
- "WASHINGTON: Child in emergent need without resources immediately available to meet his need.
- "WEST VIRGINIA: A short-term financial emergency that cannot be met with regular categorical assistance, for families and children faced with crisis needs.
- "WISCONSIN: Immediate needs in crisis situations which would otherwise be unmet, and in order to maintain or re-establish living arrangements or a home for the children and other family members included in an AFDC grant.

"WYOMING:

Anything that keeps a family  
from being self-sufficient."

EMERGENCY ASSISTANCE EXPENDITURESFOR FISCAL YEAR 1976(note a)

	<u>Total expenditures</u>	<u>Number of families receiving emergency assistance</u>
Arkansas (note b)	\$ 500	2
Connecticut (note b)	752,853	8,180
Delaware	112,389	3,184
District of Columbia	1,330,106	2,635
Illinois (note b)	128,220	537
Kansas	461,531	2,787
Kentucky	479,003	3,303
Maryland	4,688,167	19,783
Massachusetts	5,479,786	Not listed
Michigan	6,698,114	50,638
Minnesota	4,352,556	24,220
Montana	60,576	445
Nebraska	276,008	1,934
New Jersey	1,208,905	4,319
New York	17,645,715	45,611
Ohio	15,608,862	86,970
Oklahoma	258,876	1,656
Oregon	562,259	5,863
Pennsylvania	140,752	136
South Dakota (note b)	5,454	17
Utah	252	1
Virginia	1,245,918	4,921
Washington	3,269,034	12,066
West Virginia	871,614	18,055
Wisconsin (note b)	298,095	4,137
Wyoming	<u>111,367</u>	<u>1,640</u>
<b>Total</b>	<b><u>c/\$66,046,952</u></b>	<b><u>c/303,050</u></b>

a/In addition to the jurisdictions shown in this appendix, Vermont, Puerto Rico, and the Virgin Islands had a program plan in effect in fiscal year 1976 but did not claim any expenditures.

b/No longer participating in the program as of September 1977.

c/Seven States--Maryland, Massachusetts, Michigan, Minnesota, New York, Ohio, and Washington--account for \$57,742,234, or 87 percent of program expenditures and at least 239,288, or 79 percent, of the families receiving assistance. Two States, New York and Ohio, account for 50 percent of the expenditures and 43 percent of the families.



DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE  
OFFICE OF THE SECRETARY  
WASHINGTON, D.C. 20001

JAN 18 1978

Mr. Gregory J. Ahart  
Director, Human Resources  
Division  
United States General  
Accounting Office  
Washington, D.C. 20548

Dear Mr. Ahart:

The Secretary asked that I respond to your request for our comments on your draft report entitled, "Should Emergency Assistance for Needy Families Be Continued? If So, Program Improvements Are Needed." 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,

  
Thomas D. Morris  
Inspector General

Enclosure

DEPARTMENT OF HEALTH, EDUCATION AND WELFARE'S COMMENTS  
ON THE GENERAL ACCOUNTING OFFICE DRAFT REPORT ENTITLED,  
"SHOULD EMERGENCY ASSISTANCE FOR NEEDY FAMILIES BE CONTINUED?  
IF SO, PROGRAM IMPROVEMENTS ARE NEEDED"

GAO Recommendations

That the Secretary, HEW:

- Initiate action, through the Congress, if necessary, to resolve the definition and interpretation problems hindering the operation of the Emergency Assistance Program.
- Develop uniform guidelines for administering and monitoring the program based on an appropriate definition of emergency assistance.
- Once definitive criteria for emergency assistance and uniform guidelines are developed, monitor State's programs on a continuing basis to ensure compliance.

Department Comment

HEW already has initiated and submitted legislation to the Congress which should help to resolve the problems identified by GAO in its report. The draft bill specifically provides for participating States to define for themselves the scope of the emergency assistance applicable within the State. A State would be able to (1) prescribe the categories of needy families with children that could participate in the current program, and (2) specify the types of emergencies under which a family could be eligible for assistance. The draft bill would also establish a separate emergency assistance program for needy families--with or without children--and for individuals in the case of a presidentially declared natural disaster or other occurrence of regional or national significance beyond a State's control. Federal financial participation in this new separate emergency assistance program would be at the 75 percent rate. We believe the provisions in the draft bill including the increase in the matching rate in special situations, would clear up some of the administrative problems in relation to present difficulties and litigation.

The Department will develop guidelines and program monitoring consistent with any legislation that is enacted.

Other Matters

The GAO report cites statistics that indicate that a small number of States account for 87 percent of the expenditures under the Emergency Assistance Program. They suggest that based on the statistics cited, the number of States that have chosen not to participate in the program and the apparent abuses discovered in the administration of the program in some of those States that do participate, Congress should consider whether or not the program is necessary. We do not feel any valid conclusions about the need for the program can be drawn based on the disproportionate participation among the States.

**PRINCIPAL HEW OFFICIALS RESPONSIBLE FOR**  
**ACTIVITIES DISCUSSED IN THIS REPORT**

	<u>Tenure of office</u>	
	<u>From</u>	<u>To</u>
<b>SECRETARY OF HEALTH, EDUCATION, AND WELFARE:</b>		
Joseph A. Califano, Jr.	Jan. 1977	Present
David Mathews	Aug. 1975	Jan. 1977
Caspar Weinberger	Feb. 1973	Aug. 1975
<b>ADMINISTRATOR, SOCIAL AND REHABILITATION SERVICE (note a):</b>		
Don I. Wortman (acting)	Jan. 1977	Mar. 1977
Robert Fulton	June 1976	Jan. 1977
Don I. Wortman (acting)	Jan. 1976	June 1976
John A. Svahn (acting)	June 1975	Jan. 1976
James S. Dwight, Jr.	June 1973	June 1975
<b>COMMISSIONER, ASSISTANCE PAYMENTS ADMINISTRATION (note a):</b>		
David Hurwitz (acting)	Jan. 1977	Mar. 1977
Nicholas Norton	Dec. 1976	Jan. 1977
Nicholas Norton (acting)	Jan. 1976	Dec. 1976
John A. Svahn	July 1973	Jan. 1976
<b>COMMISSIONER OF SOCIAL SECURITY (note a):</b>		
Don I. Wortman (acting)	Dec. 1977	Present
James B. Cardwell	Sept. 1973	Dec. 1977
<b>ASSOCIATE COMMISSIONER, OFFICE OF FAMILY ASSISTANCE (note a):</b>		
Barry Van Lare	Dec. 1977	Present
David Hurwitz (acting)	Mar. 1977	Dec. 1977

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**a/On March 8, 1977, the Secretary of HEW announced a reorganization of HEW. The Social and Rehabilitation Service was abolished as of that date. Responsibility for the AFDC program was assigned to the Social Security Administration.**

(106109)