

## DOCUMENT RESUME

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[Improvements Needed in AFDC's Program for Recovering Overpayments]. HRD-78-117; B-164031(4). May 25, 1978. 7 pp.

Report to Secretary, Department of Health, Education, and Welfare; by Gregory J. Ahart, Director, Human Resources Div.

Issue Area: Income Security Programs: Eligibility Determination (1301); Income Security Programs: Program Effectiveness (1302); Income Security Programs: Program Monitoring and Administration (1303).

Contact: Human Resources Div.

Budget Function: Income Security: Public Assistance and Other Income Supplements (604).

Organization Concerned: Social Security Administration.

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

Authority: Social Security Act (42 U.S.C. 601). =45 C.F.R. 223.

The Social Security Administration estimates that over \$850 million, about one-half of which was Federal funds, was erroneously paid to recipients of the Aid to Families with Dependent Children (AFDC) program during 1976. The AFDC program is a cooperative Federal-State program which provides aid in the form of cash assistance and social services to needy, dependent children and their caretaker relatives. States are not required to establish an AFDC program, but if they do it must be approved by the Department of Health, Education, and Welfare (HEW). Federal regulations allow States to reduce a recipient's AFDC benefits to recover overpayments caused by willful withholding or misstating of information which could affect eligibility or benefit amount. States are allowed considerable latitude in recovering overpayments caused by recipients willfully withholding information. Some States require recipients to fully repay overpayments while others either waive the amount overpaid, seek voluntary repayment, or attempt recovery only if fraud is involved. States are not required to maintain either complete records of the amounts overpaid or the disposition of those accounts. The Secretary of HEW should revise HEW's regulations to establish uniform and comprehensive overpayment recovery policies in the AFDC program, including requirements for States to: (1) maintain information on the total number and amount of overpayments involved and their disposition; and (2) establish a mechanism for assessing the effectiveness of their overpayment recovery efforts. The Commissioner of the Social Security Administration should assist the States in establishing an appropriate mechanism for monitoring and evaluating the adequacy of recovery efforts. (RRS)



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

HUMAN RESOURCES  
DIVISION

B-164031(4)

May 25, 1978

The Honorable  
The Secretary of Health, Education,  
and Welfare

Dear Mr. Secretary:

As part of a current review of the Social Security Administration's (SSA's) efforts to recover overpayments in the Supplemental Security Income (SSI) program, we looked at recovery requirements under the Aid to Families with Dependent Children (AFDC) program and visited nine States <sup>1/</sup> to determine the practicality of applying certain AFDC recovery criteria to the SSI program. SSA estimates that over \$850 million, about one-half of which is Federal funds, was erroneously paid to AFDC recipients during 1976. Prior to March 1977, the program was administered by the Department of Health, Education, and Welfare's (HEW's) Social and Rehabilitation Service.

Our work revealed that recovering AFDC overpayments is generally left to the States' discretion. Some States visited have very limited requirements for recovering these overpayments, while others are more extensive. Because of varying requirements, recipients are treated differently. In addition, State records on the total numbers and amounts of overpayments were incomplete. Thus, SSA and the States are precluded from determining the effectiveness of these recovery efforts. Because of these problems, we did not identify areas where the AFDC overpayment criteria could be appropriately applied in the SSI program. We anticipate issuing a report shortly on SSA's efforts to recover SSI overpayments.

A more detailed discussion of the AFDC recovery problems noted follows.

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<sup>1/</sup>California, Georgia, Kentucky, Massachusetts, Minnesota, Ohio, Oregon, Tennessee, and Washington.

## REQUIREMENT FOR RECOVERING OVERPAYMENTS

The AFDC program, established under title IV of the Social Security Act (42 U.S.C. 601), is a cooperative Federal-State program which provides aid in the form of cash assistance and social services to needy, dependent children and their caretaker relatives. States are not required to establish an AFDC program, but if they elect to do so, they must submit a plan to HEW for approval. The plan must describe the nature and scope of the States' program and assure that it will be administered in accordance with the act and applicable Federal regulations.

Section 403(b)(2)(B) of the act requires that amounts recovered from families with dependent children who were provided excessive aid under the State plan be considered in determining the Federal Government's payment to the States for program expenditures. However, the act is silent on whether or not these overpayments should be recovered. However, the Congress did give HEW broad authority under section 402(a)(5) of the act to establish regulations necessary for properly and efficiently administering and operating the States' plans. Notwithstanding this broad authority, HEW requires only that States establish methods and criteria in the State plans for identifying and resolving overpayments where fraud is involved. For those States who have elected to establish broader overpayment recovery provisions, HEW requires that such provisions comply with certain minimum Federal requirements.

According to SSA, nine States <sup>1/</sup> only have overpayment recovery requirements for handling fraud cases; however, for the most part, they do not attempt to recover them. SSA estimates that, for 1976, the nine States erroneously paid AFDC recipients about \$153 million. According to SSA officials, about 2 percent or less of these erroneous payments were caused by recipient fraud. The remaining 41 States' plans include broader recovery provisions.

We discussed HEW's authority to require States to establish uniform and comprehensive provisions in their plans for recovering all overpayments with your general counsel.

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<sup>1/</sup>Arkansas, Delaware, Hawaii, Illinois, Kentucky, Maine, Maryland, New Mexico, and South Carolina.

According to the general counsel, HEW has the authority to impose these requirements.

### INCONSISTENT RECOVERY POLICIES

Federal regulation (45 C.F.R. 233.20 (a)(12)) allows States to reduce a recipient's AFDC benefit to recover overpayments which were caused by the recipient willfully withholding or misstating information which could affect his eligibility or benefit amount. Overpayments due to agency or recipient error, in which it is determined that information was not willfully withheld, may be recovered only if the recipient has resources or income other than the AFDC benefit.

We found that for overpayments resulting from information willfully withheld, recovery provisions in the nine States visited varied. Consequently, recipients with similar income and resources can be treated differently.

According to these provisions, four of the States visited (California, Massachusetts, Washington, and Ohio), would recover overpayments by reducing the recipients' AFDC benefit payment. California, however, would only reduce the amount provided to adults in a household. The portion of the benefit provided for a needy child would not be adjusted unless the adults had other resources or income sufficient to meet the child's needs. Massachusetts considers a recipient's financial circumstances when determining the amount that should be deducted from the AFDC payment. No adjustment would be made where recipient hardship would occur, and 10 percent of the benefit amount is the maximum that can be withheld at any one time. Washington would impose a penalty of 25 percent of the overpayment and would recover the penalty and overpayment amount in monthly increments equal to 10 percent of the benefit amount. Ohio would reduce the AFDC payment only if the recipient had at least \$300 in other available income or resources; otherwise, the overpayment would generally be waived.

Two States, Minnesota and Oregon, will either reduce the amount of an employed recipient's income disregard 1/ or

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1/For recipients with earned income, the following are disregarded from computing their grant amount each month: (1) the first \$30 earned, (2) one-third of income exceeding that amount, and (3) reasonable work-related expenses.

request voluntary repayment. Georgia and Tennessee would attempt to recover overpayments through voluntary repayments. However, for fraud cases, they may seek restitution through court action. Kentucky would recover the overpayment only if it determined that fraud was involved. In such cases, restitution would be sought through the courts.

The following hypothetical overpayment case illustrates the effect of varying State policies for recipients remaining on AFDC rolls.

#### Example

A single-parent household with 3 children receives a monthly AFDC benefit of \$432. There is no other income or resources. The parent receives income from another source in the amount of \$200 for 2 months, to support the children, but willfully withholds reporting it. She spends the money, remaining on the rolls, and, consequently, is overpaid \$400 in AFDC benefits. How each State visited would treat the overpayment recovery follows.

#### California

The State could recover a maximum of \$89 a month (the difference between the total AFDC benefit and the amount designated for the children) and in 5 months the overpayment would be repaid.

#### Massachusetts

Recovery would be limited to a maximum of \$43.20 a month until the overpayment was recovered (approximately 10 months). However, if it was decided that adjusting the check would create hardship, recovery would be suspended.

#### Washington

Washington would add a \$100 penalty (25 percent of the overpayment) to the amount to be recovered and would recover \$43.20 a month until the overpayment was recovered (approximately 12 months).

#### Ohio

The overpayment would be waived because the recipient does not have resources exceeding \$300.

Minnesota and Oregon

These States would request voluntary repayment.

Georgia and Tennessee

Both States would request voluntary repayment or consider seeking criminal prosecution for fraud.

Kentucky

Restitution would be sought only if the recipient is prosecuted for fraud, in which case, recovery is limited to a 24-month period.

For recipients who were overpaid but are no longer eligible for benefits, only three of the nine States visited have procedures enabling them to seek overpayment recovery through civil court action. However, if a recipient later qualifies for AFDC assistance, overpayment recovery procedures discussed earlier would govern recovery actions that each State would take.

OVERPAYMENT QUANTITY AND  
RECOVERY QUALITY UNKNOWN

Federal regulations require States to have a quality assurance system for measuring the accuracy of payments provided to AFDC recipients, but do not require them to assess their efforts to recover overpayments or to maintain adequate information needed for making such assessments. Of the nine States visited, none maintained complete or readily available statistics on AFDC overpayments or collections, or measured the success of their recovery efforts. In addition, neither SSA nor the Social and Rehabilitation Service had reviewed the States' recovery efforts to identify program weaknesses warranting corrective action.

CONCLUSIONS

States are allowed considerable latitude in recovering overpayments caused by recipients willfully withholding information. Some States require recipients to fully repay overpayments and others either waive the amount overpaid, seek voluntary repayment, or attempt recovery only if fraud is involved. In view of these differences and the large sums of Federal funds involved, we believe HEW should establish

uniform and comprehensive overpayment recovery criteria for all types of overpayments to minimize variances in the States' recovery policies and to insure that AFDC recipients are provided comparable treatment.

In addition, States are not required to maintain neither complete records of the amounts overpaid nor the disposition of those amounts. To improve accountability and control, the States should be required to maintain records which would show the total numbers and amounts that are overpaid and their disposition. The maintenance and accuracy of these records are also necessary for assessing the quality of the States' recovery efforts. States are required to measure the accuracy of payments made to AFDC recipients, but not the adequacy of efforts to recover overpayments. We believe a mechanism for assessing overpayment recovery efforts is important and should be established.

#### RECOMMENDATIONS

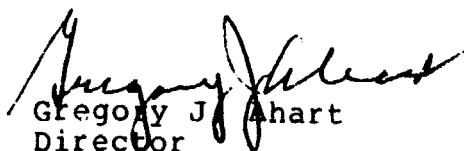
We recommend that you revise HEW's regulations to establish uniform and comprehensive overpayment recovery policies in the AFDC program for all types of overpayments, including requirements for States to (1) maintain information on the total number and amount of overpayments involved and their disposition and (2) establish a mechanism for assessing the effectiveness of their overpayment recovery efforts. In addition, we recommend that you direct the Commissioner of SSA to assist the States in establishing an appropriate mechanism for monitoring and evaluating the adequacy and effectiveness of their recovery efforts and to periodically review the States' compliance with the requirements established in the regulations.

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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 letter to the Chairmen of the House Committee on Government Operations, House Committee on Ways and Means, Senate Committee on Governmental Affairs, House Committee on Appropriations, and Senate Committee on Finance. We are also sending copies of this letter to the Chairman, Subcommittee on Public Assistance and Unemployment Compensation, House Committee on Ways and Means; Chairman, Subcommittee on Labor, Health, Education, and Welfare, Senate Committee on Appropriations; and to the Director, Office of Management and Budget.

Sincerely yours,

  
Gregory J. Ahart  
Director