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HEW's Proposed Legislation To Settle Certain Disputed State Claims for Reimbursement of Social Services Costs. March 8, 1978. 7 pp. + 2 enclosures (2 pp.).

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Before October 1, 1975, social services costs were incurred under titles I, IV, VI, X, XIV, and XVI of the Social Security Act, and since then, these costs have been incurred under title XI of the act which established a new social services program. The effect of proposed legislation is to settle all claims for social services costs incurred by States before October 1, 1975, whether or not the claims are in dispute. These claims are comprised of 81 disputed claims by 28 States totaling about \$3.4 billion and all undisputed claims paid to States before October 1, 1975. Although the legislation would settle claims for costs incurred before October 1, 1975, there would remain outstanding 60 disputed claims by 24 States totaling about \$391 million for costs incurred after that date. The Department of Health, Education, and Welfare (HEW) negotiated settlements with 28 States which had disputed claims. The following was noted about the proposed settlements: the disputed claims covered will be settled without regard to their validity; about \$543 million could probably be obtained to settle the unpaid disputed claims; it will result in States receiving from 23% to 58% of their unpaid disputed claims; the States would be paid or would keep from 50% to 100% of their total paid and unpaid disputed claims; the total benefit to each State depends largely on whether its disputed claims are paid or unpaid; and if HEW applied its formula to both paid and unpaid claims, the 28 States would repay \$85.7 million instead of HEW paying the States \$532 million. (Author/HTW)

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STATEMENT OF
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HUMAN RESOURCES DIVISION
BEFORE THE
SUBCOMMITTEE ON ADMINISTRATIVE LAW
AND GOVERNMENTAL RELATIONS
COMMITTEE ON THE JUDICIARY
UNITED STATES HOUSE OF REPRESENTATIVES

ON

HEW'S PROPOSED LEGISLATION TO SETTLE
CERTAIN DISPUTED STATE CLAIMS
FOR REIMBURSEMENT OF SOCIAL SERVICES COSTS

Mr Chairman and members of the Subcommittee, I am pleased to appear here today to comment on HEW's proposed legislation (H.R. 10101) to authorize an appropriation to reimburse certain expenditures for social services provided by the States before October 1, 1975.

At the time the legislation was introduced, we were reviewing HEW's procedures for settling State claims under certain HEW programs, including the social services program. After the legislation was introduced, we were asked to provide

information relating to the social services claims that would be settled if the proposed legislation were enacted. We did so in a report to the Chairman of the Committee on the Judiciary, on March 6, 1978. I will now summarize the information contained in our report.

Before October 1, 1975, social services costs were incurred under titles I, IV, VI, X, XIV and XVI of the Social Security Act. Since then, these costs have been incurred under title XX of the act, which established a new social services program.

The effect of the proposed legislation is to settle all claims for social services costs incurred by States before October 1, 1975, whether or not the claims are currently in dispute. These claims are comprised of 81 disputed claims by 28 States totaling about \$3.4 billion and all undisputed claims paid to States before October 1, 1975. According to HEW, the undisputed claims would no longer be subject to audit or review if the proposed legislation is enacted and any on-going audits or reviews of these claims would be terminated.

Although the legislation would settle all claims for social services costs incurred before October 1, 1975, there would remain outstanding 60 disputed claims by 24 States totaling about \$391 million for social services costs incurred after October 1, 1975.

Most of the claims disputes being settled occurred when HEW reviewed and disallowed the claims, either before or after they were paid, and the States requested HEW to reconsider the disallowances under its formal reconsideration process.

Faced with a large number and dollar amount of disputed claims outstanding, some of which have been in dispute since the early 1970's, HEW in March 1977 decided to negotiate a settlement with 28 States which had disputed claims outstanding for costs incurred before October 1975. HEW's Office of the Undersecretary negotiated the settlement with the 28 States.

We noted the following about HEW's proposed settlement:

- The disputed claims covered will be settled without regard to their validity.
- The Office of Management and Budget advised HEW that about \$543 million could probably be obtained to settle the unpaid disputed claims.
- The formula to be used for the settlement of unpaid claims is a modification by the States of an HEW proposal and will result in States receiving from 23 to 58 percent of their unpaid disputed claims.
- The States would be paid or would keep from 50 to 100 percent of their total paid and unpaid disputed claims.

--The total benefit to each State depends largely on whether its disputed claims are paid or unpaid even though both paid and unpaid claims were disallowed by HEW for the same reasons. For example, Illinois had paid claims totaling about \$188 million and Massachusetts had unpaid claims totaling about \$142 million which were all disallowed because reimbursement would have resulted in supplanting rather than supplementing State expenditures. Under the settlement, however, Illinois would keep the \$188 million and Massachusetts would receive \$75 million of the \$142 million.

--If HEW applied the formula to both the paid and unpaid claims, the 28 States in total would repay \$85.7 million instead of HEW paying the States \$532 million.

HEW's financial records showed that as of September 13, 1977, the disputed claims for the 28 States totaled about \$2.6 billion for social services expenditures made from 1969 until October 1, 1975. HEW gave the States a listing showing the amounts on its records for each State's outstanding claims and asked them if the amounts were correct.

Through negotiations with the States, HEW's listing was revised to show what each State considered to be the correct amount of its claims to be settled. The revised listing

showed a total of about \$2.4 billion (\$1.56 billion unpaid and \$830 million paid) compared to HEW's total of about \$2.6 billion. HEW accepted the revised amounts as the basis for negotiating the settlement, with the difference of about \$200 million on its records to be written off.

According to HEW, in negotiating the settlement, no attempt was made to determine the validity of the claims or to assess the merits of either HEW's or any State's position on any disputed claim. However, as part of the settlement, HEW is requiring the States to certify that the amounts claimed were actually spent.

On October 5, 1977, HEW announced that it had reached an agreement with the 28 States to resolve the \$2.4 billion in disputed claims. Under the terms of the agreement, 19 States with unpaid claims of \$1.56 billion would receive \$532 million distributed on a formula basis. Of the 19 States, 13 also had paid claims and would retain their portion of the \$830 million they had already received. The remaining nine States had only paid claims and likewise would retain their portion of the \$830 million.

According to HEW, it agreed to allow the States to keep the \$830 million because at the time of payment HEW believed the claims were valid. We determined, however, that the

claims included in the \$830 million were not reviewed in detail by HEW to determine their validity before they were paid.

Seven New York claims account for about \$1.4 billion of the \$2.4 billion involved in the negotiated settlement. All claims by States other than New York included in the \$2.4 billion were in HEW's formal reconsideration process. However, of New York's \$1.4 billion in claims, only about \$233 million was in this process. According to HEW, the remaining \$1.17 billion was not reviewed in detail because it was claimed under State plan amendments submitted in December 1971 and was not allowable because the amendments were never approved. In July 1972, however, HEW paid New York about \$359 million of the \$1.17 billion in anticipation that the amendments would be approved.

The \$359 million is included in the \$830 million that HEW is allowing the States to keep in the proposed settlement. The remaining \$812 million of the \$1.17 billion was not paid by HEW and is part of the \$1.56 billion in unpaid claims to be settled. New York would be paid about 23 percent of this \$812 million.

In addition to the \$1.4 billion included in the negotiated settlement, seven other New York claims totaling about \$1.0 billion, for costs which exceeded the State's

social services allotment ceiling during 1973-75 would be settled if the proposed legislation were enacted. Most of the \$1.0 billion is also for costs claimed under the State's unapproved plan amendments. According to HEW, however, these claims would not have been payable even if the amendments had been approved. Therefore, these claims are to be written off with no monetary effect to the Federal Government, whether or not the proposed legislation is enacted.

From October 1972 to March 1977, HEW and New York made numerous attempts to resolve the dispute over the unapproved plan amendments. At one point, HEW had an administrative law judge review the amendments, but he never made a decision on their approvability. Since March 1977 activity related to resolving this dispute has been suspended pending the outcome of the proposed settlement.

Enclosed with our statement are schedules showing (1) the amount and percentage of its total disputed claims each State would be paid or keep under the proposed settlement and (2) the effect of applying the settlement formula to both paid and unpaid claims versus just the unpaid claims.

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Mr. Chairman, this concludes our statement. We will be happy to answer any questions that you or other Members of the Subcommittee might have.

AMOUNTS AND PERCENTAGES OF TOTAL DISPUTED CLAIMSEACH STATE WOULD BE PAID OR WOULD KEEP

<u>State</u>	(1) <u>State claims unpaid by HEW</u>	(2) <u>State claims paid by HEW- State keeps money</u>	(3) <u>Total paid and unpaid claims (1) + (2)</u> (millions)	(4) <u>Proposed payment of unpaid claims to State under formula (note a)</u>	(5) <u>Total State would be paid or would keep (2) + (4)</u>	(6) <u>Percentage of total claims State would be paid or would keep (5) + (3)</u>
Alabama	-	\$ 1.0	\$ 1.0	-	\$ 1.0	100
Alaska	-	.7	.7	-	.7	100
Arizona	-	5.2	5.2	-	5.2	100
Arkansas <u>b/</u>	\$ 3.8	-	3.8	\$ 2.2	2.2	58
California	-	1.5	1.5	-	1.5	100
Connecticut <u>b/</u>	38.0	6.0	44.0	22.0	28.0	64
Florida	28.7	29.1	57.8	11.0	40.1	69
Georgia	.7	6.0	6.7	.3	6.3	94
Idaho <u>b/</u>	1.1	-	1.1	.6	.6	55
Illinois	87.3	188.4	275.7	32.1	220.5	80
Kentucky	-	2.4	2.4	-	2.4	100
Louisiana	-	16.7	16.7	-	16.7	100
Maine <u>b/</u>	2.2	-	2.2	1.3	1.3	59
Maryland <u>b/</u>	24.7	-	24.7	14.3	14.3	58
Massachusetts <u>b/</u>	142.0	-	142.0	75.0	75.0	53
Michigan <u>b/</u>	57.1	8.4	65.5	32.6	41.0	63
Minnesota <u>b/</u>	49.4	4.0	53.4	28.6	27.6	61
Missouri	-	.2	.2	-	.2	100
New Jersey <u>b/</u>	1.3	-	1.3	.7	.7	54
New York	914.0	490.0	1,404.0	214.4	704.4	50
Ohio	15.1	5.0	20.1	5.7	10.7	53
Oklahoma	-	13.8	13.8	-	13.8	100
Pennsylvania	4.2	2.8	7.0	1.6	4.4	63
Rhode Island	-	1.2	1.2	-	1.2	100
Tennessee	(note c)	.5	.5	-	.5	100
Texas	92.7	34.7	127.4	34.0	68.7	54
Washington <u>b/</u>	32.8	5.6	38.4	19.0	24.6	64
Wisconsin <u>b/</u>	65.0	6.3	71.3	36.5	42.8	60
Total	<u>\$ 1,560.1</u>	<u>\$ 829.5</u>	<u>\$ 2,389.6</u>	<u>\$ 531.9</u>	<u>\$ 1,361.4</u>	<u>57</u>

a/If the unpaid claims are 85 percent or more of the total amount in dispute (paid and unpaid claims), the formula is:

58 percent of the first \$50 million
50 percent of the next \$100 million
21 percent of the remainder

If the unpaid claims are less than 85 percent of the total amount in dispute, the formula is:

38 percent of the first \$50 million
35 percent of the next \$100 million
21 percent of the remainder

b/The States to which the higher formula in note a applies.

c/Tennessee has unpaid claims of only \$4,000.

HEW'S PROPOSAL VERSUSAPPLYING THE FORMULA TO ALL CLAIMS

<u>State</u>	<u>HEW proposal</u>		<u>Effect of applying same formula to all claims</u>	
	<u>Proposed payment of unpaid claims to State under formula</u>	<u>State claims paid by HEW → State keeps money</u>	<u>HEW pays State</u>	<u>State pays HEW</u>
		(millions)		
Alabama	-	\$ 1.0	-	\$.6
Alaska	-	.7	-	.4
Arizona	-	5.2	-	3.2
Arkansas	\$ 2.2	-	\$ 2.2	-
California	-	1.5	-	.9
Connecticut	22.0	6.0	19.5	-
Florida	11.0	29.1	-	7.4
Georgia	.3	6.0	-	.5
Idaho	.6	-	.6	-
Illinois	32.1	188.4	-	108.0
Kentucky	-	2.4	-	1.5
Louisiana	-	16.7	-	10.4
Maine	1.3	-	1.3	-
Maryland	14.3	-	14.3	-
Massachusetts	75.0	-	75.0	-
Michigan	32.6	8.4	28.4	-
Minnesota	28.6	4.0	26.7	-
Missouri	-	.2	-	.1
New Jersey	.7	-	.7	-
New York	214.4	490.0	-	172.7
Ohio	5.7	5.0	2.6	-
Oklahoma	-	13.8	-	8.6
Pennsylvania	1.6	2.8	-	.1
Rhode Island	-	1.2	-	.7
Tennessee	(note a)	.5	-	.3
Texas	34.0	34.7	11.4	-
Washington	19.0	5.6	16.7	-
Wisconsin	36.5	6.3	33.3	-
Total	\$ 531.9	\$ 829.5	\$ 232.7	\$ 318.4

a/Tennessee has unpaid claims of only \$4,000 and would be paid only \$1,500.

Net amount States would pay HEW if formula were applied to all claims (\$318.4 - \$232.7)	<u>\$ 85.7</u>
Under HEW's proposal States would receive	\$531.9
If formula were applied to all claims, States would pay	<u>85.7</u>
Total benefit to HEW if formula were applied to all claims	<u><u>\$617.6</u></u>