

**Memorandum**

AUG - 7, 2000  
*Michael Mangano*  
Date *for* June Gibbs Brown  
From Inspector General

Subject Review of Commonwealth of Pennsylvania Department of Public Welfare Costs Claimed Under Title IV-A Emergency Assistance for Children in Youth Development Centers, Youth Forestry Camps, and Castille Contracted Detention Facilities from October 1, 1994 to September 30, 1996 (A-03-99-00594)

To Olivia A. Golden  
Assistant Secretary  
for Children and Families

This is to alert you to the issuance of our final report on August 9, 2000. A copy is attached. The objective of our review was to determine if Emergency Assistance (EA) claims for \$60.5 million in Federal financial participation (FFP) submitted by Department of Public Welfare (DPW) for children who resided at Youth Development Centers, Youth Forestry Camps, and Castille contracted detention facilities complied with Federal statutes, regulations and guidelines.

During the period of our review, October 1, 1994 to September 30, 1996, DPW experienced a tremendous growth in the number of claims and the amount of FFP reimbursed under the EA program. In a period of just 2 years, FFP dramatically increased from about \$2.9 million in FY 1994 to about \$250.3 million in FY 1996. In total, DPW was reimbursed \$445.4 million in FFP during our 2-year audit period. The DPW's reclassification of Juvenile Detention Facility costs as eligible for EA contributed to this growth. Our review covered \$60.5 million of FFP claimed for these facility costs.

We determined that \$51.5 million of the \$60.5 million FFP reviewed, or about 85 percent, was unallowable under Federal criteria. We made this determination based on two different audit methodologies:

- We questioned \$1,570,267 in FFP on the basis of our computer analysis of Castille contracted detention claims and our analytical review of Forestry Camp Claims.
- We questioned an additional \$49,913,995 in FFP on the basis of our statistical sample of claims invoiced by DPW.

The EA program was eliminated by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, which created the Temporary Assistance for Needy Families block grant. We are, therefore, not making any procedural recommendations. We recommend that DPW:

- Refund \$51,484,262 to the Federal Government for FFP associated with unallowable EA claims invoiced by DPW for Forestry Camp and Castille contracted detention facilities claims for FYs 1995 and 1996.

By letter dated October 6, 1999, DPW responded to a draft of this report. The DPW agreed with our finding that \$322,902 in FFP was incorrectly claimed for children who had been in detention for more than 6 months prior to the April 1, 1994 effective date of modifications to Pennsylvania's State Plan. However, DPW generally disagreed with or did not comment on our other findings and our recommendation.

Any questions or comments you may have concerning any aspect of this memorandum are welcome. Please call me or have your staff contact Joseph J. Green, Acting Assistant Inspector General for Administrations on Children, Family, and Aging Audits, at (301) 443-3582.

Attachment

**Department of Health and Human Services**

**OFFICE OF  
INSPECTOR GENERAL**

**COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF PUBLIC WELFARE**

**COSTS CLAIMED UNDER TITLE IV-A  
EMERGENCY ASSISTANCE FOR  
CHILDREN IN YOUTH DEVELOPMENT  
CENTERS, YOUTH FORESTRY CAMPS,  
AND CASTILLE CONTRACTED  
DETENTION FACILITIES**

**OCTOBER 1, 1994 - SEPTEMBER 30, 1996**



**JUNE GIBBS BROWN  
Inspector General**

**AUGUST 2000  
A-03-99-00594**



DEPARTMENT OF HEALTH & HUMAN SERVICES  
OFFICE OF INSPECTOR GENERAL  
OFFICE OF AUDIT SERVICES  
150 S. INDEPENDENCE MALL WEST  
SUITE 316  
PHILADELPHIA, PENNSYLVANIA 19106-3499

Our Reference: Common Identification Number A-03-99-00594

Mr. Michael Stauffer  
Deputy Secretary for Administration  
Pennsylvania Department of Public Welfare  
Health and Welfare Building  
P.O. Box 2675  
Harrisburg, Pennsylvania 17105-2675

Dear Mr. Stauffer:

Enclosed for your information and use are two copies of an OIG final audit report entitled **“REVIEW OF COMMONWEALTH OF PENNSYLVANIA DEPARTMENT OF PUBLIC WELFARE COSTS CLAIMED UNDER TITLE IV-A EMERGENCY ASSISTANCE FOR CHILDREN IN YOUTH DEVELOPMENT CENTERS, YOUTH FORESTRY CAMPS, AND CASTILLE CONTRACTED DETENTION FACILITIES FROM OCTOBER 1, 1994 TO SEPTEMBER 30, 1996.”** Your attention is invited to the audit findings and recommendations contained in this report.

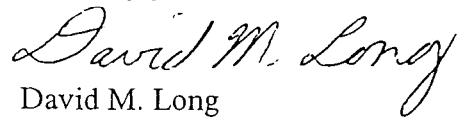
Final determination as to actions to be taken on all matters reported will be made by the HHS official named below. The HHS action official will contact you to resolve the issues in this audit report. Any additional comments or information that you believe may be bearing on the resolution of this audit may be presented at that time. Should you have any questions, please direct them to the HHS official named below.

In accordance with the principles of the Freedom of Information Act (Public Law 90-23), HHS/OIG Office of Audit Services reports issued to the Department's grantees and contractors are made public to the extent information contained therein is not subject to the exemptions in the Act, which the Department chooses to exercise. (See Section 5.71 of the Department's Public Information Regulation, dated August 1974, as revised.)

Page 2 - Mr. Michael Stauffer

To facilitate identification, please refer to the above common identification number in all correspondence pertaining to this report.

Sincerely yours,

A handwritten signature in cursive script that reads "David M. Long".

David M. Long  
Regional Inspector General  
for Audit Services

Enclosure

Reply direct to:

Grants Officer  
Administration for Children and Families, Region III  
U.S. Department of Health and Human Services  
Suite 864, Public Ledger Building  
150 S. Independence Mall West  
Philadelphia, PA 19106-3499

## EXECUTIVE SUMMARY

This audit report presents the results of an Office of Inspector General (OIG) **REVIEW OF COMMONWEALTH OF PENNSYLVANIA DEPARTMENT OF PUBLIC WELFARE COSTS CLAIMED UNDER TITLE IV-A EMERGENCY ASSISTANCE (EA) FOR CHILDREN IN YOUTH DEVELOPMENT CENTERS, YOUTH FORESTRY CAMPS, AND CASTILLE CONTRACTED DETENTION FACILITIES FROM OCTOBER 1, 1994 TO SEPTEMBER 30, 1996.**

The objective of our review was to determine if EA claims of \$60.5 million in Federal financial participation (FFP) submitted by DPW for children who resided at Youth Development Centers, Youth Forestry Camps, and Castille<sup>1</sup> Contracted Detention Facilities complied with Federal statutes, regulations and guidelines (hereafter referred to as Federal criteria).

During the period of our review, DPW experienced a tremendous growth in the number of claims and the amount of FFP reimbursed under the EA program. The reclassification of juvenile detention facility costs contributed to this growth. As of April 1, 1994, DPW added children arrested as a consequence of their delinquent behavior, to the definition of an emergency. The Pennsylvania State plan dated April 1, 1994 initially allowed residential group care (including juvenile detention services and secure residential services at a private or public facility) to be covered by the Title IV-A EA Program. The FFP reimbursed to DPW was relatively insignificant until Fiscal Year (FY) 1995 when the FFP increased dramatically. In a period of just 2 years, FFP increased from about \$2.9 million in FY 1994 to about \$250.3 million in FY 1996. In total, DPW was reimbursed \$445.4 million in FFP during our 2-year audit period.

Our review covered \$60.5 million of the \$445.4 million. The FFP we reviewed was for 8,742 claims submitted by DPW for EA services provided to children who resided at Youth Development Centers (YDCs), Youth Forestry Camps (YFCs) and Castille Contracted Secure Detention facilities within the Commonwealth. The FFP consisted of:

- ✓ \$46.6 million for 4,296 claims for children residing at State run Youth Development Centers and Youth Forestry Camps (hereafter collectively referred to as Forestry Camps), invoiced by the DPW Office of Administration; and

---

1

There were 10 Castille contracted detention facilities that provided secure beds to adjudicated delinquent youths from Philadelphia under the Castille court order (see page 3 of the report for details on the Castille court order). Children who were committed to a State facility and who were awaiting placement in the Youth Study Center were placed with Castille providers when all State operated institutions exceeded 110 percent of capacity.

- ✓ \$13.9 million for 4,446 claims for children residing at 10 Castille contracted Secure Detention Facilities (hereafter referred to as Castille) invoiced by the DPW Office of Children Youth and Families.

We determined that \$51.5 million of the \$60.5 million FFP reviewed, or about 85 percent, was unallowable under Federal criteria. We made this determination based on two different audit methodologies:

- ☛ ***We questioned \$1,570,267 in FFP on the basis of our computer analysis of Castille Contracted Claims Invoiced and our analytical review of Forestry Claims.*** We identified 125 Castille EA claims for children who had been detained for more than 6 months prior to April 1, 1994, the date that juvenile detention costs first became covered by the Pennsylvania State plan. Thus, these claims did not meet Federal criteria requiring a child to live with a specified relative for 6 months prior to the EA application. The FFP related to the children in detention 6 months prior to the date that the State plan for EA program started including detention services totaled \$322,902. We also identified 1,235 Castille claims for children who were also enrolled and claimed under the Title IV-E Foster Care program. This was contrary to Federal criteria and the State plan. The Title IV-A claims totaling \$660,666 in FFP supplemented Title IV-E claims. Finally, we identified Forestry Camp children who, contrary to Federal Title IV-A criteria, received services for more than 12 consecutive months. We identified 71 children claimed for FFP on 89 claims after the expiration of the 12-month service window established by Federal criteria. The FFP totaled \$586,699 for the services provided after the 12-month period.
- ☛ ***We questioned \$49,913,995 in FFP on the basis of our statistical sample from 7,364 EA claims invoiced by DPW.*** Of the 200 claims reviewed in our sample, 192 contained at least 1 violation of Federal criteria--141 had 2 to 4 violations.

### **Types of Claims in Statistical Sample**

Our statistical projection was based on our review of 200 statistically selected claims that were submitted for FFP by DPW. We stratified the claims reviewed into two distinct types: Forestry Camp claims and Castille contracted claims. We found widespread violations of Federal criteria in both types of claims reviewed, with the error rate being 96 percent for both claims. Overall, 192 of the 200 claims reviewed had at least 1 violation, with 141 of the claims having 2 or more violations. As shown in the following table, the 192 claims contained a total of 362 violations of Federal criteria.

<b>CLAIMS WITH VIOLATIONS OF FEDERAL CRITERIA</b>					
<b>Violations Per Claim</b>	<b>Forestry Camp</b>	<b>Castille</b>	<b>Total Claims</b>	<b>Percent</b>	<b>Total Violations</b>
1	38	13	51	27%	51
2	49	64	113	58%	226
3	8	19	27	14%	81
4	1	0	1	1%	4
<b>Total</b>	<b>96</b>	<b>96</b>	<b>192</b>	<b>100%</b>	<b>362</b>
<b>Claims Reviewed</b>	100	100	200		

### **Types of Violations Associated with Claims in the Statistical Sample**

All 200 claims involved children, under the age of 21, who were therefore age-eligible for the EA program. In addition, all services we reviewed occurred before January 1, 1996, the date that the Administration for Children and Families (ACF) established that juvenile justice related claims would no longer be considered an emergency. Therefore, the claims under that standard were claimable under the Title IV-A EA program. However, as shown in the following table, we identified 8 types of violations of Federal criteria associated with the 192 claims that contained at least 1 violation.



<b>TYPES OF VIOLATIONS</b>		
<b>VIOLATIONS</b>	<b>Number of Violations</b>	<b>Projected Amount (FFP)</b>
<b>Ineligibility of the Child</b>		
Child Did Not Live With Specified Relative	36	\$8,857,266
<b>Ineligibility of the Service</b>		
No Signed Application by Parent or Guardian	184	\$52,528,772
Application/Authorization Was Backdated	35	\$5,415,887
No Authorization	46	\$15,154,223
Service Provided Outside the 12-Month Service Window	17	\$5,631,532
Unrelated Claim Within 12-Month Service Window	30	\$9,317,609
Service Claimed Was Not Provided	10	\$2,138,062
Duplicate Billing for Same Service	4	Not Estimated
<b>Total</b>	<b>362</b>	

The projected amounts shown in the above table can be used only to show the estimated effect of the individual violations on DPW claims for FFP. The amounts do not reconcile with our recommended financial adjustment of \$49,913,995 based on the results of the statistical sample because: (1) about 73 percent of the claims with a violation had more than one, and our recommended financial adjustment does not duplicate the violations, and (2) the above amounts are the statistical mid-point estimates while our recommended financial adjustment is based on the lower limit estimate.

### **Conclusions and Recommendations**

In our opinion, the tremendous growth in the claims for FFP during the 2 years we reviewed resulted from expanding the definition of an emergency and the widespread noncompliance with Federal criteria. We believe the noncompliance by DPW and the Counties was caused by DPW's desire to maximize FFP. The DPW circumvented Federal criteria by disregarding such fundamental principles of the EA program as the child's living arrangement prior to applying for assistance, the role of parents/guardians in the application process, making sure services claimed were provided and the 12-month time period in which services could be provided. A clear indication of DPW's motivation is the widespread backdating of applications and authorizations by Family Court and County representatives. We estimate that at least \$51,484,262 in FFP reimbursed to DPW during this period was for unallowable claims.

The EA program was eliminated by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, which created the Temporary Assistance for Needy Families (TANF) block grant. We are, therefore, not making any procedural recommendations. We recommend that DPW:

- Refund to the Federal Government \$51,484,262 for FFP associated with unallowable EA claims invoiced by DPW for Forestry Camp and Castille claims in FYs 1995 and 1996.

The DPW responded to our draft report on October 6, 1999. The DPW agreed with our finding that \$322,902 in FFP was incorrectly claimed for children who were in detention for more than 6 months prior to the April 1, 1994 effective date of Pennsylvania's State plan. However, DPW generally disagreed with or did not comment on our other findings and our recommendation.

We have reviewed DPW's response and have included it as Appendix C to this report. We have also summarized their response, and presented our comments after each applicable finding area in this report. However, we have not made any changes to the findings contained in the report as a result of DPW's response.

# TABLE OF CONTENTS

EXECUTIVE SUMMARY .....	i
INTRODUCTION .....	1
Background .....	1
Objective, Scope and Methodology .....	3
RESULTS OF REVIEW .....	6
Computer Analysis of Castille Claims & Analytical Review of Forestry Camp Claims	10
Results of Statistical Sample .....	15
Child Did Not Live With Specified Relative .....	18
No Signed Application by Parent or Guardian .....	21
Application/Authorization Was Backdated .....	26
No Authorization .....	32
Service Provided Outside the 12-month Service Window .....	33
Unrelated Claim Within 12-Month Service Window .....	37
Service Claimed Was Not Provided .....	40
Duplicate Billing for Same Service .....	42
CONCLUSIONS AND RECOMMENDATIONS .....	43
APPENDICES	
Sampling Methodology .....	A
Sample Projections .....	B
Auditee Response .....	C

# INTRODUCTION

## BACKGROUND

### EA Program

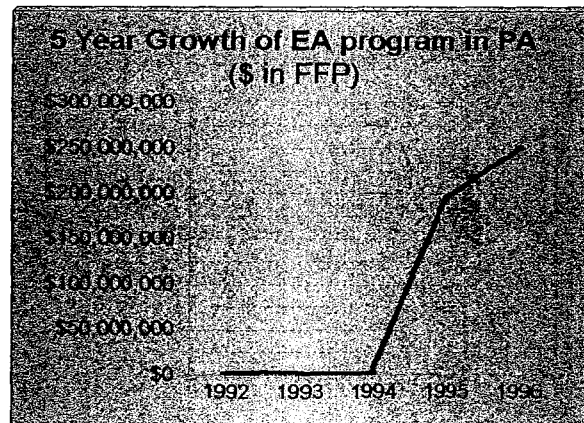
Title IV-A, Section 406(e) of the Social Security Act (amended by Public Law 90-248) established the EA program as an optional supplement to the Aid to Families with Dependent Children (AFDC) program. The EA program was a federally sponsored State-administered program. The purpose of the program was to provide temporary financial assistance and supportive services to eligible families experiencing an emergency. Services provided under the EA program were reimbursed at a 50 percent FFP rate.

The 45 CFR 233.120 stated that EA services could only be provided to or on behalf of a needy child under the age of 21 and any member of the household in which: (1) such child was living (or had been living in the prior 6 months) with a specified relative, (2) the child was without available resources to meet the emergency, (3) the assistance was necessary to avoid destitution of such child or to provide living arrangements in a home for such child, and (4) the destitution or need for living arrangements did not arise because such child or relative refused without good cause to accept employment or training for employment.

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 eliminated AFDC, EA, and the Job Opportunity and Basic Skills programs as of FY 1997 and created the TANF block grant.

### Pennsylvania's State Plan

The DPW was the single State agency designated to administer the EA program. In the spring of 1994, the DPW submitted, and ACF approved, amendments to the EA portion of the Pennsylvania State plan for Title IV-A. State plan transmittal No. TN-94-01-AFDC, effective April 1, 1994 expanded Pennsylvania's EA program to cover shelter care, foster care, or residential group care (including juvenile detention services and secure residential services at a private or public facility) for children separated from their parents, unless the child had such assistance provided under Title IV-E. After DPW implemented their 1994 State plan amendment, EA costs rose from about \$5.7 million in 1994 to over \$500.6 million in 1996. In the same period, the FFP reimbursement increased from about \$2.9 million to about \$250.3 million, an increase of 8,531 percent. Prior to April 1, 1994, EA did not include juvenile detention services.



The ACF issued Action Transmittal ACF-AT-95-9 on September 12, 1995. This notified State agencies that effective January 1, 1996, FFP would not be available under the EA program for costs associated with providing benefits or services to children removed from the household as a result of the child's alleged, charged, or adjudicated delinquent behavior. Any claims for juvenile justice system costs incurred after January 1, 1996 were to be disallowed.

### **Pennsylvania Emergency Assistance Program System**

The Pennsylvania Emergency Assistance Program System (PEAPS) was developed by the Commonwealth to track children who were eligible to receive EA benefits. Caseworkers or Family Court parole officers at the counties entered data from EA applications into the PEAPS. Each county maintained its own PEAPS database and sent data to DPW's Information Systems Department which updated a statewide PEAPS database.

### **Types of Claims**

The DPW, as the single State agency for the EA program, submitted EA claims to recover FFP for State expenditures for delinquent children committed to State and private detention facilities. Several placement options were available for children committed to State facilities including: nine Youth Development Centers (YDCs), and three Youth Forestry Camps (YFCs). Ten contractor operated facilities (Castille) were also available for children from Philadelphia when State facilities exceeded capacity.

### **Forestry Camps**

Children who committed serious delinquent offenses were sentenced to State detention facilities. The State ran 12 facilities (hereafter collectively referred to as Forestry Camps) that had a capacity to house 761 children at 100 percent capacity in 1995:

- Nine Youth Development Centers (YDC) including:
  - South Western Secure Unit
  - Loysville - Secure
  - New Castle Secure
  - Bensalem Secure
  - North Central Secure Unit
  - Southeast Secure Unit
  - Loysville- Residential
  - New Castle Residential
  - Weaversville
  
- Three Youth Forestry Camps (YFC)

The Forestry Camps also provide specialized program needs for sex offenders, fire setters and aggressive/assaultive youth. A profile of the crimes committed by children who were placed in Forestry Camps in 1994 is illustrated in the following chart.

<b>Children Sent to Forestry Camps Committed the Following Serious Offenses in 1994</b>			
<b>Crime Type</b>	<b># of Cases</b>	<b>Crime Type</b>	<b># of Cases</b>
Murder	4	Assault	285
Rape	34	Attempted Murder	4
Robbery	132	Escape	95
Arson	11	Failure to Adjust	68
Burglary	108	Auto Theft	148
Firearm	105	Probation Violation	163
Drugs	165	Kidnapping	1

### **Castille Court Order**

Ten detention facilities were available from privately contracted providers in accordance with the Castille court order for children from Philadelphia when State facilities exceeded capacity. A shortage of secure beds within the Commonwealth system was the impetus for the court case known as Castille vs. DPW. In this case, the Philadelphia District Attorney requested the Court's assistance in reducing the overpopulation within the Philadelphia system by making more residential beds available. As a result, in December 1989, a judge issued a Commonwealth Court Order stating that youth who were committed to a State facility and who were awaiting placement in Philadelphia's Youth Study Center (YSC) must be placed within 10 days of the commitment order. The Juvenile Act states that if all State-operated youth Forestry Camps are over 110 percent of capacity, the DPW must provide equivalent services in equivalent facilities for adjudicated delinquent juveniles. In compliance with the aforementioned court order, DPW provided residential services through contracts with private providers. Noncompliance with this court order would have subjected DPW to a fine of \$5,000 per day per youth. In FYs 1994-1995, DPW contracted with the Castille providers for 713 secure beds.

## **OBJECTIVE, SCOPE AND METHODOLOGY**

### **OBJECTIVE**

The objective of our audit was to determine if EA costs of \$121 million claimed by DPW for children who resided at Forestry Camps and Castille contracted detention facilities met Federal criteria pertinent to the Title IV-A, EA program. The FFP claimed totaled about \$60.5 million.

## SCOPE

As shown in the table below, our audit covered 8,742 claims for which DPW was reimbursed about \$60.5 million in FFP for juveniles receiving detention services between April 1, 1994 and December 31, 1995.

<b>PENNSYLVANIA EMERGENCY ASSISTANCE CLAIMS REVIEWED</b>			
<b>(\$ in millions)</b>			
<b>Type of Claim</b>	<b># of Claims</b>	<b>Total Cost (Millions)</b>	<b>FFP (Millions)</b>
<b>Forestry Camps</b>	4,296	\$93.2	\$46.6
<b>Castille Contracted</b>	4,446	27.8	13.9
<b>Total Reviewed</b>	<b>8,742</b>	<b>\$121.0</b>	<b>\$60.5</b>

The DPW also claimed \$2.9 million in FFP for administrative costs associated with managing the statewide EA program and with processing the Forestry Camp and Castille claims. These administrative costs claimed by DPW were in addition to the \$72.1 million in FFP for administrative claims made by the Counties. We did not review the administrative costs associated with processing the Forestry Camp and Castille claims during this phase of our audit. We excluded these from our review because:

- ▶ DPW did not distinguish between the administrative cost associated with administering the statewide program and costs associated with processing the claims.
- ▶ The counties did not separate these administrative costs from the other administrative costs they were claiming. Counties were responsible for obtaining applications and authorizing EA for the Forestry Camp and Castille children.

## METHODOLOGY

We conducted our audit in accordance with generally accepted government auditing standards. We reconciled claims and adjustments for Forestry Camp and Castille costs claimed by DPW to the ACF-231 reports submitted to the Federal Government. The DPW's Office of Children Youth and Families invoiced the Castille claims and DPW's Office of Administration invoiced the Forestry Camp claims. We also reviewed financial accounting records, Federal and State laws and regulations, Departmental Appeals Board Decisions, and DPW policies and procedures.

We conducted the audit using two audit methodologies involving analytical and computerized reviews of children claimed under the Forestry Camp and Castille programs, and a statistical sample of remaining claims not eliminated by the analytical and computerized reviews. We used analytical procedures to review Forestry Camp claims to identify claims made for children detained in Forestry Camps and claimed under Title IV-A, EA for periods in excess of 1 year. We used the automated files DPW used to develop Castille claims to identify children who were:

- Detained at Castille providers 6 months prior to April 1, 1994--the effective date of the State plan that initially allowed DPW to claim costs associated with adjudicated delinquent children under Title IV-A EA.
- Claimed under both the Title IV-A EA and Title IV-E Foster Care programs.

We selected a scientific random sample of 200 of the remaining 7,364 EA claims submitted for costs incurred in FYs 1995 and 1996 that we did not exclude as a result of our analytical reviews. Our sample universe consisted of Forestry Camp claims listed on four claim rosters, and Castille claims listed on five claim rosters. Appendix A explains the methodology we used to develop our sample. Appendix B details the projection of sample results.

For each of the 200 claims reviewed, we obtained supporting information which typically included EA applications and authorizations, vendor vouchers to support EA claim amounts, criminal records, problem severity indexes, psychological profiles and service histories. We compared the information obtained for each claim against Federal criteria for the EA program. We also performed other auditing procedures we considered necessary under the circumstances.

Some of the claims that we reviewed were partially allowable. For example, if the claim period exceeded 12 consecutive months, in violation of Federal criteria, the claimed amount representing the initial 12 months could have been allowable, while the portion of the claim representing the 13<sup>th</sup> month forward was unallowable. Also, if DPW had support for a portion of the claim but not the entire claim, we accepted the portion that could be supported.

We performed field work at DPW and the Juvenile Court Judges Commission, both located in Harrisburg, Pennsylvania. We also performed field work in six counties at their Children and Youth Services Division and Division of Juvenile Justice Services. In addition, we requested DPW provide supporting documentation from these same divisions in 15 other counties.



## RESULTS OF REVIEW

Our review of claims invoiced by DPW for FFP disclosed widespread violations of Federal criteria. Of the \$60,509,388 in FFP reimbursed to DPW, we estimate that at least \$51,484,262 was unallowable. Our estimate is based on: ① a computer analysis of Castille contracted claims which showed that 125 children were in detention for more than 6 months prior to the date that the EA program was expanded to include juvenile detention services; ② a similar computer analysis of Castille contracted claims that showed 1,235 claims were used to supplement the Title IV-E Foster Care program; ③ our analytical review of Forestry Camp claims which identified 71 children who resided at the same Forestry Camp for more than 12 consecutive months; and ④ a statistical sample from 7,364 EA claims invoiced by DPW for Forestry Camp and Castille facilities for services provided during FYs 1995 and 1996 showed that 96 percent of the claims violated Federal Criteria.

**The OIG estimates that widespread violations of Federal criteria by DPW resulted in DPW being reimbursed at least \$51,484,262 in FFP for unallowable claims for services under the Title IV-A EA program.**

By letter dated October 6, 1999, DPW responded to a draft of this report. The DPW agreed with our finding that \$322,902 in Federal financial participation was incorrectly claimed for children who were in detention for more than 6 months prior to the April 1, 1994 effective date of Pennsylvania's state plan amendment. However, DPW generally disagreed with our other findings and recommendation and commented on most of the individual error classifications. The DPW claimed that they were given insufficient time to review source documentation and were thus unable to assess the individual sample errors. The DPW has also challenged the OIG's authority to conduct the audit, claiming that the audit was prohibited by Federal law and that the OIG applied audit criteria which was never communicated to the States. We summarized DPW's response in the following paragraphs along with our comments. The entire DPW response is included as Appendix C to this report.

### Insufficient Time to Review Cases

#### **DPW Response**

The DPW believed that OIG failed to provide sufficient time to review source documentation and, as a result, DPW was unable to assess the individual sample errors in the report.

#### **OIG Comment**

In August, 1999, we gave DPW full access to review and copy our working papers that supported each of the cases we questioned. In January 1999, we briefed DPW officials on the results of our field work and identified the individual cases we questioned and the reasons. The OIG also granted a request by DPW for an additional 30 days over the 30 days normally given to respond

to the draft report. Furthermore, DPW is not precluded from providing additional comments during the audit resolution process.

### **OIG Audit was Prohibited by Federal Law**

#### **DPW Response**

The DPW stated that when welfare reform was enacted into law in 1996, Congress provided Federal instruction for winding up the outstanding accounts related to the repealed Title IV-A programs including EA. The DPW said that Section 116 of the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) explicitly stated that the head of each Federal Agency "shall use the single audit procedure to review and resolve any claims in connection with the close out of programs" under Title IV-A. While the Single Audit Act does not limit the authority of OIG to conduct additional audits, 31 U.S.C. §7503(c), PRWORA clearly states that the closing out of accounts between the State and Federal Governments is to be accomplished via the single audit procedure, not an exception to that procedure.

#### **OIG Comment**

The OIG audit was not prohibited by Federal law. As DPW's response to our draft report acknowledges "the Single Audit Act does not limit the authority of the OIG to conduct additional audits". The President's Council on Integrity and Efficiency Policy Statement Number 6 dated May 1992, states that in addition to A-133 requirements, organizations are still subject to other audits. The Office of Management and Budget Circular A-133 does not limit Federal authority to perform additional audits or reviews. Furthermore, the OIG retains the right to conduct audits and access records as set forth in the Inspector General Act, as amended, 5 U.S.C. App.

Also, we believe that the audit we performed does not constitute a "close-out" of the Title IV-A grant but instead concerns the allowability of claims made during the latter stages of that program.

### **OIG Applied Audit Criteria Which Was Never Communicated to the States**

#### **DPW Response**

The DPW's response indicated that the EA criteria was not communicated to the States. The DPW stated that Federal law is clear that the propriety of expenditures made under a Federal grant-in-aid program such as EA must be judged "by the law in effect when the grants were made." *Bennett v. New Jersey*, 470 U.S. 632, 105 S.Ct. 1555 (1985). Under the Freedom of Information Act (FOIA), States may not be bound by Federal interpretations unless they are either published, properly indexed, or the State has "actual and timely notice of the terms thereof" 5 U.S.C. §552(a)(1). In the words of the Department of Health and Human Services' (HHS) own Departmental Appeals Board, "the State cannot be fairly held to the Agency's interpretation if the State did not receive adequate, timely notice of that interpretation in the

context where there was another reasonable interpretation relied on by the State." Illinois Department of Children and Family Services, DAB No. 1335 (1992).

The DPW believed that under the foregoing basic principles of Federal grant law, OIG had a duty to validate the legal effectiveness of the audit criteria it applied to Pennsylvania by insuring that each criterion was both officially adopted as policy by the Administration for Children and Families (ACF) and was communicated to the States in a timely fashion. Such validation of the audit criteria is part of the basic obligations imposed by the planning, due professional care, and independence requirements of Government Audit Standards (GAS). Without such validation, OIG is not conducting a bona fide professional audit. The audit becomes a political and rhetorical document which shows only the amounts of money which might have been saved had more restrictive criteria been legally adopted and communicated to the States.

The DPW stated that OIG did not validate the legal effectiveness of the audit criteria applied in this matter and, as a result, the audit here is not an audit at all in the professional sense of the word. As noted above, the analysis only shows the amounts of money which might have been saved had the program been run differently by ACF. This point is perhaps best illustrated by the draft report's citation to a conversation with an unidentified ACF official as the source for OIG's conclusion that "longstanding Office of Family Assistance policy required that the individual family, not the State agency, had to file an application for EA benefits and services." The anonymous official's interpretation plainly conflicts with the cited underlying regulation which expressly states that an application can be filed by an authorized representative or someone acting responsibly for the applicant. 45 CFR 206.10(a)(1)(ii). Moreover, the anonymous official's interpretation has never been communicated to the States or even officially adopted by ACF. The fact that OIG cited Pennsylvania for a \$51.5 million overpayment based upon an interpretation which is facially inconsistent with the language of the underlying regulation, and which interpretation was provided by an ACF official whose name is not even disclosed in the report, demonstrates why DPW rejects the findings of the OIG analysis as unreliable and wrong.

### **OIG Comment**

We believe that the State misinterpreted a provision of the Federal Freedom of Information Act at 5 USC 552(a)(1). The Act does not provide, as submitted by the State, that "States may not be bound by Federal interpretations unless they are either published, properly indexed, or the State has 'actual and timely notice of the terms thereof.'" Rather, Section 522(a)(1) requires that "[e]xcept to the extent that a person has actual and timely notice of the terms thereof, a person may not in any manner be required to resort to, or be adversely affected by, a matter required to be published in the Federal Register and not so published." A threshold question in determining whether this provision applies is whether requirements are "required to be published in the Federal Register." In conducting the audit, we relied on the Title IV-A statute, related published regulations and formal guidelines such as ACF's Action Transmittals. The law, regulations and guidelines were in effect and valid when the claims were filed and the binding nature of ACF guidelines has not been questioned by the Departmental Appeals Board or the courts. We believe that the State had actual and timely notice of all guidelines in which we are relying.

Before beginning this audit, and related EA audits in other States, we confirmed with ACF program officials the applicability of the eligibility criteria we would be using throughout these audits. Our Office of Counsel to the Inspector General also assisted in this effort.

We agree with DPW that criteria needs to be communicated to the States. The EA criteria was communicated to the states using the CFRs and action transmittals. Our audit was part of an overall audit that was conducted in several States. The ACF officials validated that the laws and regulations that were applied were in effect and valid when the claims were filed. For example, 45 CFR 234.120 and Action Transmittal SSA-AT-78-44 state that eligibility must be based on an application which also indicates the applicant's personal intent to apply for assistance. The ACF official quoted in the report, did not conflict with the regulation but supported the regulation. Also, it is OIG audit policy not to identify specific individuals by name in our reports.

Although our report relied on Federal criteria, Pennsylvania's own State Code, Title 55, Subpart I, Chapter 289 "Emergency Assistance" elaborates on some of the Federal criteria contained in this report. The Pennsylvania Code Chapter 289.4 Emergency Assistance "Procedures" states "Procedures for authorizing Emergency Assistance. A basic finding must be made that an emergency, as defined in § 289.2 (relating to definitions) does exist and that the individual or family qualifies for Emergency assistance as provided in § 289.3." Pennsylvania's State Code, Title 55 Chapter 125.1 addresses the issue of who must sign an application form. The Pennsylvania Code requirements for signing an application form are as follows:

" Application is made on an application form approved by the Department ... The applicant, regardless of age, shall sign prior to filing the form ... Failure to sign shall result in the ineligibility of the person required to sign the form."

The DPW response did not accurately represent 45 CFR §206.10(a)(1)(ii). The CFR states that an agency "shall require a written application, signed under penalty of perjury, on a form prescribed by the State agency, from the applicant himself, or his authorized representative, or where the applicant is incompetent or incapacitated, [emphasis added] someone acting responsibly for him."

We have responded further throughout the report to the State's particular concerns regarding the application of those criteria and believe all our findings are fully supported. Also, DPW did not indicate which regulation or guideline they did not receive nor how our specific findings are inconsistent with the regulations or guidelines.

## COMPUTER ANALYSIS OF CASTILLE CLAIMS AND ANALYTICAL REVIEW OF FORESTRY CAMP CLAIMS

We are questioning FFP of \$1,570,267 based on our computer analysis of Castille contracted claims and our analytical review of Forestry Camp claims which showed that DPW invoiced claims for FFP of:

- \$322,902 for detention claimed for FFP on 125 claims for children who were detained for more than 6 months prior to April 1, 1994, the date that juvenile detention cost were first covered by the Pennsylvania State plan. These children were unable to meet Federal criteria requiring children to live with a specified relative for 6 months prior to the EA application;
- \$660,666 for detention claimed for FFP on 1,235 claims for children who were also enrolled and claimed under the Title IV-E Foster Care program; and
- \$586,699 for detention provided to 71 children and claimed for FFP on 89 claims after the expiration of the 12-month service window established by Federal criteria.

We eliminated the unallowable claims and dollars associated with the children discussed above from further review and sampling because our analytical review allowed us to determine they were all clearly in violation of Federal criteria.

### Children Who Were Detained for More Than 6-months Prior to the Inclusion of Juvenile Detention Costs in the State Plan

Our analysis of Castille claims data identified 125 claims for children who were in detention for more than 6 months prior to April 1, 1994, the date that juvenile detention costs first became allowable by the Pennsylvania State

Plan. The 125 claims totaled \$322,902 in FFP. We identified the 125 claims for children by reviewing detention admission dates.

A valid claim requires that a child live with a specified relative 6 months prior to an application for EA service. These 125 claims involved children who were incarcerated during the entire 6 months prior to April 1, 1994, the date that the EA program was expanded to include residential group homes which include detention placements. Thus, these children could not have met the requirement to live with a specified relative for 6 months prior to the EA application and claim. The 45 CFR 233.120 (b)(1)(i) states such child is (or within 6 months prior to the month in which such assistance is requested has been) living with any of the relatives specified in section 406(a)(1) of the Act in a place of residence maintained by one or more of such relatives as his or their own home.

Section 406(a)(1) of the Social Security Act defines “dependent child” as a needy child who has been deprived of parental support or care by reason of the death, continued absence from the home (other than absence occasioned solely by reason of the performance of active duty in the uniformed services of the United States), or physical or mental incapacity of a parent, and who is living with his father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, nephew, or niece, in a place of residence maintained by one or more of such relatives as his or their own home.

We eliminated claims for children in detention for more than 6 months prior to April 1, 1994, the date of the change to the State plan, from further review and sampling.

### **DPW Response**

The DPW agreed with our finding that \$322,902 in FFP was incorrectly claimed for children who were in detention more than 6 months prior to the April 1, 1994 effective date of Pennsylvania’s State plan.

<b>Title IV-A EA Claims Supplementing the Title IV-E Foster Care Program</b>
--

Our analysis of Title IV-A Emergency Assistance and Title IV-E Foster Care claims showed that DPW made 1,235 claims for children enrolled under both programs. The

1,235 EA claims totaled \$660,666 in FFP. We determined that DPW declared that the portion of costs unallowable under the Title IV-E Foster Care program was an emergency and claimable under the Title IV-A EA Program.

One example of Title IV-A funds used to supplement the Title IV-E program involved a child who was detained in a Castille contracted detention facility from July 1, 1994 through September 30, 1994 (92 days). According to the Title IV-E claim, the child spent 92 days in detention at \$73.32 per day, or \$6,745. The actual cost of detention was shown as being \$8,482, or \$1,737 more than that reimbursed under the Title IV-E Foster Care program. We reviewed the Title IV-A claim for the same quarter and found that DPW’s Office of Children Youth and Families claimed for the same child the \$1,737 that was not reimbursed under the Title IV-E Foster Care program. This audit did not address the issue of whether or not facilities that house adjudicated delinquents could be claimed as Title IV-E foster care providers.

Both the Social Security Act and the State plan preclude payment for the costs of foster care that exceed the funds reimbursed under Title IV-E. The Social Security Act, Section 472 authorizes foster care maintenance payments “with respect to a child who would meet the requirements of §406(a) or of §407 but for his removal from the home of a relative (specified in §406(a)),” so long as four criteria are met. Section 409 of the Social Security Act states, “a child with respect to whom foster care maintenance payments or adoption assistance payments are made under part E or under State or Local law shall not, for the period for which such payments are made, be

regarded as a member of a family for purposes of determining the amount of benefits of the family under this part”, that is, Title IV-A. Therefore, a child cannot be eligible for Title IV-A and Title IV-E at the same time; they are mutually exclusive.

The Pennsylvania State plan (Transmittal No. 94-01-AFDC, Section C(3)(4)) which authorized shelter care and foster family care under the EA program was in accordance with this exclusion as it specifically excluded EA if a child had assistance provided under Title IV-E.

The Office of Management and Budget Circular A-87, Cost Principles for State, Local and Indian Tribal Governments also applies. Section (C)(3)(c) states that “any cost applicable to a particular grant or cost objective under the principles provided in this Circular may not be shifted to other Federal grant programs to overcome fund deficiencies, to avoid restrictions imposed by law or terms of the Federal awards, or for other reasons.”

We eliminated the 1,235 Title IV-A claims that supplemented the Title IV-E Foster Care program from further review and sampling.

### **DPW Response**

The DPW believes that ACF policy has long permitted the dual receipt of benefits under EA and other programs so long as there is no duplication of coverage. In a memorandum dated February 14, 1992 addressing this issue, the Director of the Office of Family Assistance advised that EA was not intended to duplicate assistance to meet the "identical needs" addressed by other public assistance programs.

The EA did not duplicate the "identical needs" of Title IV-E recipients. Accordingly, Pennsylvania was permitted to utilize EA to supplement benefits for Title IV-E eligible children.

### **OIG Comment**

A child cannot be eligible for Title IV-A and Title IV-E at the same time; the programs are mutually exclusive. This is recognized in the Social Security Act and in the Pennsylvania State plan which authorizes shelter care and foster family care under its EA program. The State plan defines the services provided to meet emergency situations, which include emergency protective services for children. The following statement from the plan confirms that it excludes emergency assistance for children receiving IV-E assistance:

Emergency protective services for children [include] “Shelter care, foster family care, or residential group care (including juvenile detention services and secure residential services at a private or public facility) for children separated from their parents, unless the child has such assistance under Title IV-E.”

In addition, Transmittal Memorandum--SSA-AT-82-28, in effect since November 5, 1982, states that it is not permissible to authorize EA to supplement an inadequate public assistance grant.

Our review showed that when the cost of foster care exceeded funds available under the Title IV-E program, DPW made EA claims for the difference. In effect, DPW shifted costs that exceeded maximum per diem rates under the Foster Care program and declared them EA costs. This is not allowable.

**Children Detained at the Same Forestry Camp  
for More Than 12 Consecutive Months**

Our reviews of Forestry Camp claims showed that 89 of the 4,296 claims for children invoiced by DPW's Office of Administration received services that extended beyond the 12-month service

window established by Federal criteria. The 89 claims involved 71 children. Eighteen of the 89 claims (\$207,259) were unallowable because the costs were incurred after the child was detained for over 12 months at the same location. Also, a portion of the costs associated with 71 claims were unallowable because the claims include costs for days in detention exceeding 12 months (\$379,440). EA authorizations are valid for only 12 consecutive months according to the Social Security Act section 603(b)(3) and section 406 (e)(1), and 45 CFR section 233.120(b)(3). The FFP reimbursed totaled \$586,699 for services provided to the 71 children beyond the 12 month service window. We excluded these costs from our statistical sample. The 71 children were included in our sample since the FFP reimbursed on their behalf during the initial 12-month period may also have been unallowable. However, we omitted the 18 claims that were over the 12-month limit from our sampling because they were entirely unallowable.

**DPW Response**

The DPW stated that the audit claims that Federal law limited the State to a 12-month authorization period and the audit cites an anonymous ACF employee for this interpretation. However, ACF's policy was that there was no arbitrary limitation on the length of an emergency. In a memorandum dated January 5, 1993, the Director of the Office of Family Assistance stated that none of the official policy statements previously issued by ACF "establishes a specific time standard for determining when a particular type of assistance may no longer be viewed as addressing an emergency. Accordingly, a Federal determination that a proposed time limit for providing EA is too long would have to be based on a finding that the proposed duration of assistance is longer than necessary to respond to the emergency."

The DPW asserts that the OIG is well aware that ACF has approved EA service authorization periods in excess of 1 year. In its 1995 audit report entitled "Review of Rising Costs in the Emergency Assistance Program," OIG noted that one State had been permitted to increase its eligibility period "from 6 months to as long as the emergency exists." Pennsylvania is a second State that was permitted such an expansion. Pennsylvania's approved State plan states in highlighted underlined language that "services will be provided until the emergency condition is alleviated."

Pennsylvania's approved State plan language expressly permits service authorization periods in excess of 1 year. Consistent with its view that no arbitrary limitation could be imposed upon



authorization periods, ACF approved that language. It is both unfair and unlawful for OIG to retroactively impose an arbitrary 12-month limit in its audit criteria.

### **OIG Comment**

Emergency Assistance authorizations are valid for only a 12-month period. The purpose of the EA program was to provide temporary financial assistance and supportive services to eligible families experiencing an emergency. Section 406(e)(1) of the Social Security Act states that EA can be “furnished for a period not in excess of 30 days in any 12-month period”. The 45 CFR 233.120(b)(3) states Federal matching is available during one period of 30 consecutive days in any 12 consecutive months.

The State agency claimed FFP under the EA program for service provided to clients more than 12 months after the date of the clients’ application. For example, the State agency claimed FFP for adjudicated juvenile delinquents at detention centers for more than a year. Some of the claims that the OIG disallowed were for children who had committed serious crimes and had subsequently been sentenced to detention for many years.

The Social Security Act Section 406(e)(1) allows EA services to be furnished for a period not in excess of 30 days in any 12 month period. The 45 CFR 233.120(b)(3) likewise required that EA services be authorized in a 30-day period. If any need for EA occurs after the 30 day period, the applicant must wait a minimum of 12 months from the date of the last EA application submission before submitting another EA application.

Pennsylvania’s approved State plan language follows the regulation closely on this issue. The plan reads as follows: “services will be provided until the emergency condition is alleviated and must be authorized during a single 30-day period no less than 12 months after the beginning of the family’s last EA authorization period.”

Although our report relied on Federal criteria, Pennsylvania’s own State Code, Title 55, Subpart I, Chapter 289.1 (b) states that “Federal financial participation is available only for emergency assistance (EA) to families with children under age 21 for a period not to exceed 30 consecutive days within a 12 consecutive month period.” The Pennsylvania State Code Title 55 Subpart I Chapter 289.3 (c) is specific regarding the period of eligibility for EA:

*“(c) Period of eligibility. Emergency assistance will be authorized only for one period of 30 consecutive days in any 12-consecutive months. The 30-day period begins on the date emergency assistance is authorized. During the 30-day period following the authorization date, shelter costs as described in § 289.4(a)(2) (relating to procedures) may be authorized when required to meet an emergency situation. Although more than*

*one payment may be authorized during the 30-day period, no emergency assistance may be authorized after the 30-day period has expired. An individual or family may again be eligible for emergency assistance 12 months from the date emergency assistance was first authorized.*

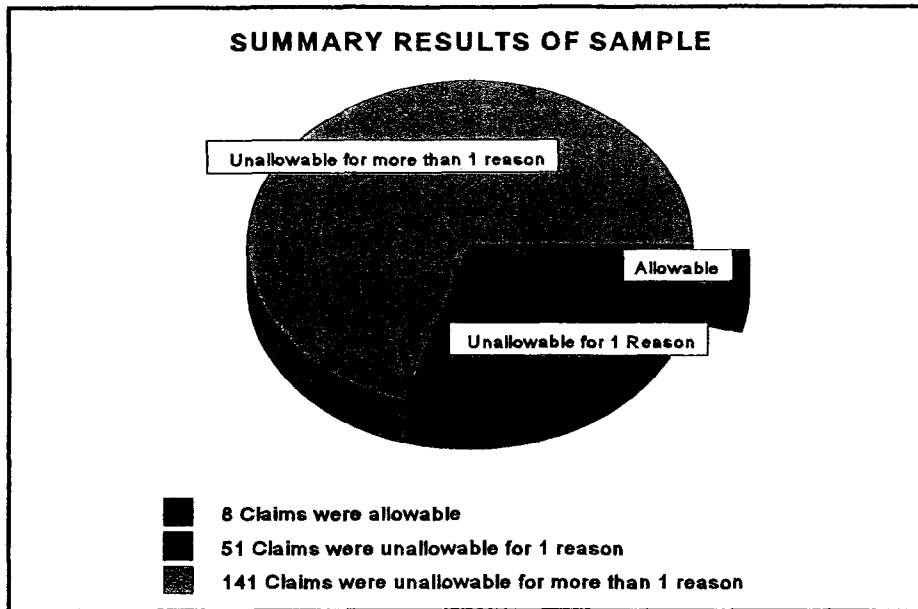
*(1) Exception. Non-AFDC or non-AFDC-CU families with children under age 21, who receive family cash assistance under the provisions of § 289.4(a)(1) for 30 days within a 12-month period, may also be granted emergency shelter need under the provisions of §289.4(a)(2) for one 30-day period within the same 12-consecutive months. The second emergency assistance authorization in any 12-consecutive month period is solely State funded. However, if a family receives the family cash assistance payment under the provisions of § 289.4(a)(1) and an emergency shelter expense payment under the provisions of § 289.4(a)(2) during the same consecutive 30-day period, a second emergency shelter expense payment may not be authorized until 12 months have elapsed from the date of authorization.*

*(2) Applicants. Emergency assistance may be authorized at time of initial application for a period not to exceed 30 consecutive days within a 12-consecutive month period.*

*(3) Recipients. Emergency assistance may be authorized at the time the emergency arises, at the time of redetermination or reapplication if an emergency condition is determined to exist, for a period not to exceed 30 consecutive days provided 12-consecutive months have passed since the date Emergency Assistance was last authorized.”*

## **RESULTS OF STATISTICAL SAMPLE**

We statistically sampled 7,364 EA claims invoiced by DPW. The FFP for these claims totaled \$58,939,121. Using a standard scientific estimation process, we estimated with 95 percent confidence that DPW claimed and was reimbursed FFP of at least \$49,913,995 for claims that violated provisions of the Federal criteria (this estimate is the lower limit of the 90 percent two-sided confidence interval). Our projection was based on our review of 200 statistically selected claims out of the sample universe. Our projection was an unduplicated error projection and, therefore, did not take into account the fact that over 70 percent of the claims reviewed were not in compliance with two to four provisions of the Federal criteria as shown below.



**Types of Claims in Sample**

Our sample consisted of 100 Forestry Camp claims and 100 Castille claims invoiced by DPW. Widespread violations of Federal criteria were found in both types of claims as shown in the following table.

<b>TYPES OF CLAIMS</b>					
Type	Number of Claims Sampled	Number of Claims with Violations	Value of Claims Sampled (FFP)	Total Number of Violations	Value of Violations (FFP)
Forestry Camp	100	96	\$1,043,081	164	\$1,008,695
Castille	100	96	441,428	198	427,060
<b>Total</b>	<b>200</b>	<b>192</b>	<b>\$1,484,509</b>	<b>362</b>	<b>\$1,435,755</b>

**Forestry Camp Claims**

We randomly selected our statistical sample of 100 Forestry Camp claims from a population of 4,278 claims made on 4 claim rosters submitted by DPW during FYs 1995 and 1996. These claims consisted of costs incurred from April 1, 1994 through December 31, 1995. These claims totaling \$46 million in FFP were for juvenile justice system housing costs associated with operating State detention facilities. The 100 Forestry Camp claims reviewed totaled \$1,043,081

in FFP. We determined that 96 of the claims totaling \$1,008,695, or 96 percent of the amount reimbursed, violated one or more of the provisions of Federal criteria. The 96 erroneous claims had 164 specific violations.

### **Castille Claims**

We randomly selected our statistical sample of 100 Castille claims from a population of 3,086 claims made on 5 claim rosters submitted by DPW during FYs 1995 and 1996. These claims, totaling \$13 million in FFP, were for juvenile justice system housing costs billed by contractors associated with operating detention facilities and providing secure beds for adjudicated delinquents. Children entered a Castille facility after they were adjudicated delinquent as a result of their behavior. The children were committed to these facilities when State Forestry Camps were filled to capacity. The 100 Castille claims reviewed totaled \$441,428 in FFP. We determined that 96 of the claims totaling \$427,060 or 96 percent of the amount reimbursed, violated one or more provisions of Federal criteria. The 96 erroneous claims had 198 specific violations.

### **Types of Violations in Sample**

We found no violations of Federal criteria involving the age of the children. All the children were under the age of 21 and, therefore, age-eligible for the EA program.

In addition, we found that all of the claims were costs incurred for delinquents prior to January 1, 1996. As of January 1, 1996, EA for delinquent children in detention was no longer allowable. However, we did identify several other types of violations, of which one pertained to the ineligibility of the child and seven to the ineligibility of the service, as shown below.

TYPES OF VIOLATIONS			
VIOLATIONS	Number of Violations	FFP in Violations	Projected Amount (FFP)
<b>Ineligibility of the Child</b>			
Child Did Not Live With Specified Relative	36	\$232,546	\$8,857,266
<b>Ineligibility of the Service</b>			
No Signed Application by Parent or Guardian	184	1,343,652	52,528,772
Application/Authorization Was Backdated	35	171,469	5,415,887
No Authorization	46	382,446	15,154,223
Service Provided Outside 12-Month Service Window	17	133,348	5,631,532
Unrelated Claim Within 12-Month Service Window	30	233,701	9,317,609
Service Claimed Was Not Provided	10	62,676	2,138,062
Duplicate Billing for Same Service	4	9,393	Not Estimated
<b>Total</b>	<b>362</b>	<b>\$2,569,231</b>	

Because most of the erroneous claims contained multiple violations, our estimates for the individual violations are not mutually exclusive of each other and should not be added together. The individual estimates are presented only to show the possible effect the individual violations had on DPW's claims for FFP.

**Child Did Not Live With Specified Relative**

Thirty-six claims in our statistical sample of 200 claims involved children who did not live with a specified relative at least 6 months prior to application for EA and who were therefore ineligible for EA services. The 36 children were either incarcerated in State-operated forestry camps or detention centers, or were living in residential settings for the 6 months preceding the EA

Sample Strata	Sample Population	# of Claims with Violation	Error %
Forestry Camps	100	14	14.0%
Castille	100	22	22.0%
Totals	200	36	

application date. Projecting these errors to the universe of claims, we estimate that DPW was reimbursed \$8,857,266 in FFP for claims for ineligible children. We also identified in our

sample an additional seven children who did not live with a relative for 6 months prior to the claimed period, and for whom an EA application did not exist. We did not include these seven claims in this individual estimate. These claims were included in other violation categories including no signed application by parent or guardian and no authorization. Aside from this violation, 35 of the 36 claims violated at least 1 other provision of the Federal criteria.

### **Federal Criteria**

A child must have lived with a specified relative 6 months prior to an application for EA. The 45 CFR 233.120 (b)(1)(i) states such child is (or within 6 months prior to the month in which such assistance is requested has been) living with any of the relatives specified in section 406(a)(1) of the Act in a place of residence maintained by one or more of such relatives as his or their own home.

Section 406(a)(1) of the Social Security Act defines “dependent child” as a needy child who has been deprived of parental support or care by reason of the death, continued absence from the home (other than absence occasioned solely by reason of the performance of active duty in the uniformed services of the United States), or physical or mental incapacity of a parent, and who is living with his father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, nephew, or niece, in a place of residence maintained by one or more of such relatives as his or their own home.

### **Audit Results**

Of the 200 claims sampled, 36 were for children who did not live with a specified relative during the 6 months prior to the EA application. The 36 claims totaled \$465,092 for which DPW was reimbursed FFP of \$232,546. We are questioning the entire amount of the FFP.

*Twenty-two claims* involved children who were incarcerated during the entire 6 months prior to the EA application. For example, a child was detained at an institution for delinquents from August 1993 through June 1995 for possession of a controlled substance, armed robbery, and firearms violations. On October 19, 1994, a Juvenile Probation Representative prepared an application and determined that the child was not eligible for EA because the child did not live with a specified relative during the 6 months prior to the application. The disallowance was overruled by another county representative who authorized the application. This representative made the determination that the child did indeed live with a specified relative during the 6 months prior to the application. Thus, DPW made a claim for this ineligible child for \$52,491 and received FFP of \$26,245.

*Eleven claims* were for children whose whereabouts were unknown during part of the 6 months prior to the EA application. There was no indication that these children resided with a specified relative. For example, a child was detained from May 1994 through February 1996 for robbery, aggravated assault, criminal conspiracy, and theft. The child escaped December 1994, was rearrested on January 31, 1995 and charged with escape, carrying firearms, receiving stolen

property, and criminal conspiracy. The EA application, prepared just 2 days after the arrest, stated that the child lived with a specified relative within the 6 months preceding the application. As a result, the DPW made a claim of \$31,726 and received FFP of \$15,863 for the cost of the child's incarceration after the escape on the basis of this improper application. This improper application was also used to claim \$35,871 for the cost of this child's incarceration prior to the escape.

*Three claims* were for children in residential settings (not living with a specified relative). For example, Philadelphia County placed a child in a residential foster home setting in August 1993. A County representative prepared an EA application for the child dated November 4, 1994, which was about 15 months after the child had already been placed in a residential setting. Since the child did not live with a specified relative 6 months prior to the date of application, the child was not eligible for EA assistance. As a result, the DPW made a claim of \$11,359 and received FFP of \$5,680 for the cost of the child's incarceration on the basis of this improper application. We noted that the EA application form used by counties required that the representative determining eligibility ascertain if the child lived with a parent or specified relative. However, the form stated that it was not necessary for the child to have been removed from the home but only that the child resided with a specified relative as briefly as a single overnight stay within the last 6 months. In our opinion, visiting with a specified relative for just 1 night over a 6-month period is not living with a specified relative, particularly when the child spent the remainder of the time incarcerated or in a residential setting and otherwise in the custody of the juvenile justice authority. Moreover, for one child, EA services were authorized even though the application form had the box checked that the applicant had not lived with a specified relative during the 6 months prior to the EA application. Philadelphia County representatives who prepared many of the EA applications told us that they had no contact with the children or parents. These officials stated they merely handled the paperwork.

*Seven claims* in our sample were for children that did not live with a relative for 6 months prior to the claimed period, and for which an EA application did not exist. We did not include these seven claims in this individual estimate. These seven claims were unallowable because an EA application did not exist.

We found that 35 of the 36 claims violated other provisions of the Federal criteria. The most prevalent of the violations pertained to the lack of a proper signature on the application form supporting the claim. Thirty-five of the claims were not supported by applications signed by a parent or guardian. In total, the 36 claims contained 48 other violations.

### **DPW Response**

The DPW stated that OIG appears to have determined a case to be erroneous whenever the child was in residential care more than 6 months prior to the date EA was authorized.

The DPW believes that the OIG ignored Federal policy which establishes the date of the report of abuse or neglect as the date of application for EA. The DPW stated that the Federal Government

has long recognized that a large percentage of delinquent children have a history of abuse and neglect. Such children would be covered by the policy which uses the date of an abuse or neglect report as the application date for EA. The DPW stated that OIG made no effort to ascertain a history of abuse or neglect with respect to the children in question and OIG did not apply the correct application date with respect to these children.

The DPW stated that any child who was living with a specified relative within 6 months of a report of abuse or neglect is eligible for EA regardless of the date when the EA service eligibility form was completed.

**OIG Comment**

An EA application is required for all emergencies according to 45 CFR 206.1(a)(1)(ii). We are not aware of any Federal policy that establishes the date of the report of abuse or neglect as the date of application for EA. Federal Policy at 45 CFR 233.120 (b)(1)(i) is clear that a child must have lived with a parent or specified relative 6 month prior to the month in which assistance is requested. Pennsylvania’s own EA authorization form contains this requirement. Although our audit relied on Federal Criteria, Pennsylvania’s own State Code, Title 55, Subpart I, Chapter 289.3 states that a child is only eligible for EA if “The child is, or has been within 6 months prior to application for assistance, residing with relatives specified in § 151.42 (relating to definitions).” Chapter 125.1 of the Pennsylvania State Code also requires that “Application is made on an application form approved by the Department.” The OIG relied on dates contained on DPW’s State designated EA applications and authorizations.

In the cases we disallowed for not living with a specified relative 6 months prior to the EA claim, the Emergency Assistance case files contained no reports of child abuse or neglect. Furthermore, we requested that the Statewide Child Abuse and Neglect Hotline (otherwise known as Child Line) match the children in our sample to their database of reported abuse and neglect cases. The Child Line did not provide us with information which showed that someone reported any of the children as being abused or neglected. The cases contained in this finding were for children who were incarcerated for an extended period of time (up to several years). The claims we reviewed for these emergencies were as a result of a child’s delinquent act and not as the result of abuse.

**No Signed Application by Parent or Guardian**

A total of 184 claims in our statistical sample of 200 claims were not supported by properly signed applications for EA. Only 16 of the 200 claims in our sample contained the proper signature of a parent or guardian. For the remaining 184 claims: 34 had no applications, 6 had unsigned applications, and 144 had applications

Sample Strata	Sample Population	# of Claims with Violation	Error %
Forestry Camps	100	90	90.0%
Castille	100	94	94.0%
Totals	200	184	



signed by County representatives. With 10 exceptions, there was no evidence for the 184 claims that parents or guardians were contacted to obtain their signatures, to determine if they were incompetent or incapacitated, or to notify them of the authorization of EA services.

Projecting these errors to the universe of claims, we estimate that DPW was reimbursed \$52,528,772 in FFP for claims which were not supported by an EA application signed by a parent or guardian. Aside from this violation, 140 of the 184 claims violated at least 1 other provision of the Federal criteria.

### **Federal Criteria**

The process for obtaining EA benefits began with a valid application for assistance. The process required an application filed by an adult member of the family on behalf of a child under 21 years old. The Federal criteria listed below deal with the application in terms of intent and signature. The criteria also deal with notifying the applicant upon authorization of services and the need to support eligibility or ineligibility in the case record.

- The 45 CFR 206.10(a)(1)(ii) states the Agency “shall require a written application, signed under penalty of perjury, on a form prescribed by the State agency, from the applicant himself, or his authorized representative, or, where the applicant is incompetent or incapacitated, someone acting responsibly for him.”
- The 45 CFR 234.120 and Action Transmittal SSA-AT-78-44 state that eligibility must be based on an application. An application indicates the applicant’s personal intent to apply for assistance. A determination must be made that the individual meets the conditions of eligibility for EA under the State plan.
- The 45 CFR 206.10(b)(2) states that an “application is the action by which an individual indicates in writing to the agency administering public assistance (on a form prescribed by the State Agency) his desire to receive assistance.”
- The 45 CFR 206.10 (a)(4) states that “Adequate notice shall be sent to applicants and recipients to indicate that assistance has been authorized (including the amount of financial assistance) or that it has been denied or terminated. Under this requirement, adequate notice means a written notice that contains a statement of the action taken, and the reasons for and specific regulations supporting such action, and an explanation of the individual’s right to request a hearing.”
- The 45 CFR 206.10(a)(8) states that “Each decision regarding eligibility or ineligibility will be supported by facts in the applicant’s or recipient’s case record.”

A longstanding Office of Family Assistance (OFA) policy required that the individual family, not the State agency, had to file an application for EA benefits and services. The applicant had to be able to choose to either apply or not apply for assistance. In the EA program, OFA allowed a limited exception to the individual or family filing the application in child abuse and neglect cases. In situations where immediate intervention was necessary to protect the child from abuse or neglect and where the parent or another responsible adult member in the household was incapacitated or incompetent to apply for EA, a designated State agency official could complete and sign an application on behalf of the child and eligible family members. However, upon completion of such an application, the State agency had to notify the child's parents or other responsible adults of the State's action.

### **Audit Results**

Of the 200 EA claims sampled, only 16 claims were properly supported by EA applications signed by parents or guardians. The 184 claims not supported by an application signed by a parent or guardian totaled \$2,687,304 for which DPW was reimbursed FFP of \$1,343,652. We are questioning the entire amount of the FFP.

Of the 184 claims that we are questioning:

- 34 applications were missing,
- 6 applications contained no signature whatsoever, and
- 144 applications were signed by a County representative and not a parent or guardian.

We are questioning all 184 claims. The fact that 34 claims were not supported by an application is a clear violation of Federal criteria which require that eligibility be based on the application. We believe the lack of a parent or guardian signature on an application form prepared by a County representative is an equally clear violation.

The State plan provides that the application generally must be filed by an adult member of the family. The only exception to the requirement is if both parents are absent or unwilling to apply on behalf of children who meet all other eligibility conditions. In such a case, another adult relative or the county agency acting on behalf of children may file the application. We believe the exception dealing with a parent's unwillingness to apply for EA is contrary to Federal criteria which require demonstration of the applicant's intent to apply or, in the case of children, the intent of the parent or guardian. Unless the parent or guardian is incompetent or incapacitated, the parent's or guardian's unwillingness to apply should end the matter, and the county should not be allowed to apply for services contrary to the stated wishes of the parent or guardian.

We found, however, little evidence that attempts were made to contact the parents or guardians to obtain approval and signature on the applications. Of the 150 applications that were either

unsigned or signed by a County representative, only 10 contained any indication that an attempt was made to contact a parent or guardian. In seven cases the parent was not available. In three cases, the parent refused to sign the application. A County representative noted on these EA applications that the parent declined to apply for assistance by refusing to sign the application. The County representatives then signed the EA applications. For example, a child was arrested for car theft in May 1993 and placed on intense probation in August 1993. Probation continued after the child was arrested in July 1994 for possession with intent to deliver a controlled substance. The child was committed to a delinquent institution in October 1994. The Juvenile Probation Officer prepared the EA application for this child in January 1995 to cover costs incurred from April 1994. The EA application noted that the child's parents, however, refused to sign the application to apply for EA. The County representative signed the application and noted that the parents refused to apply for assistance. Another County representative approved EA for the child. In our sample, DPW claimed \$3,572 in FFP for this child from October 1995 to December 1995 even though the parents declined to apply for the EA.

In not a single case did we find any indication that the counties determined that the parent or guardian was incompetent or incapacitated. Nor were we provided any evidence that the children were in need of the immediate intervention of Philadelphia Department of Human Services (DHS) or Family Court staff because of abuse or neglect. Many of these children, in fact, were already incarcerated at the time the applications were prepared.

County representatives who prepared many of the applications that we reviewed stated they rarely saw or talked to families. The representatives only prepared applications based on bills and other information received from intake workers or providers. They said no local procedure existed to make all EA applicants aware that EA services were requested or authorized. In fact, County representatives prepared applications for the children housed with Castille providers on the basis of transportation records provided by a State unit co-located with Family Court. These applications were prepared without the benefit of interviewing either the child or parent.

Allowing the County representatives to prepare applications without input from parents contributed to several other types of violations noted in our review. We found that of the 184 claims in our sample without properly signed applications, 140 contained other violations as well. For instance, 35 of the claims were for services provided to children who did not live with a specified relative 6 months prior to the date the application was prepared, and 35 of the claims were supported by applications or authorizations that were backdated. In total, the 184 claims contained 169 other violations.

### **DPW Response**

The DPW replied that as noted in the OIG report, ACF's position is that the Federal regulation at 45 CFR. 206.10 applies to EA. However, OIG has refused to apply that portion of the regulation which expressly states that an application may be filed by an "authorized representative" or

"where the applicant is incompetent or incapacitated, someone acting responsibility [sic] for him." This language plainly includes a social service agency acting on behalf of a minor child.

The DPW believes that certain ACF staff have recently adopted the position that an application for EA must be filed by the family, not the State. However, the position urged by ACF staff is a new one and was never formally communicated to the States. In the early 1990s, ACF expressly approved a procedure by which the Connecticut Commissioner of the Department of Children and Families could apply on behalf of each foster child by sending a request for EA in the form of a memo. In North Carolina Department of Human Services, DAB #1631 (1997), the HHS Departmental Appeals Board noted that ACF agreed that the EA "application may be submitted by the child's parent or a responsible adult or by a social service agency acting on behalf of the child."

The right of a social service agency to sign an application for a child in the custody of the county is also confirmed in prior Departmental Appeals Board decisions. Thus, for example, in Louisiana Department of Health and Human Services, DAB No. 989 (1988), the Appeals Board interpreted the companion Medicaid regulation to §206.10 and stated that "it would be unreasonable to expect a very young child to sign the form, and the caseworker, representing the State, is a likely person to verify the information on the form. Neither the regulation (42 C.F.R. §435.907) nor the State plan mandate that the child or parent must sign, and there apparently is no bar to the caseworker being the sole signatory."

Parental signature requirements only make sense in the context of a child who is living in a family situation. When a child is taken into custody, the local agency acts in loco parentis and does everything the parent would do, including making application for government benefits. The OIG audit criterion of a parent signature on the EA application is not only contrary to the plain language of the regulation and ACF's prior interpretations, it also is nonsensical. The interpretation advances no sound public policy in the context of children who have been removed from the home setting.

### **OIG Comment**

The 45 CFR 206.10(a)(1)(ii) states the Agency "shall require a written application, signed under penalty of perjury, on a form prescribed by the State agency, from the applicant himself, or his authorized representative, or, where the applicant is incompetent or incapacitated, someone acting responsibly for him."

There was no evidence to show that 181 of the 184 EA applicants whose claims we questioned even knew that the Counties applied for EA on their behalf. Three applicants who did know all refused to apply for EA. The 45 CFR 234.120 and Action Transmittal SSA-AT-78-44 state that eligibility must be based on an application which also indicates the applicant's personal intent to apply for assistance. The DPW also failed to comply with 45 CFR 206.10 (a)(4) which states that "Adequate notice shall be sent to applicants and recipients to indicate that assistance has been authorized (including the amount of financial assistance) or that it has been denied or

terminated. Under this requirement, adequate notice means a written notice that contains a statement of the action taken, and the reasons for and specific regulations supporting such action, and an explanation of the individual’s right to request a hearing.”

The DPW stated that ACF expressly approved a procedure by which the Connecticut Commissioner of the Department of Children and Families could apply on behalf of each foster child by sending a request for EA in the form of a memo. The claims we reviewed for emergencies were made as a result of a child committing a delinquent act which resulted in the child being incarcerated, and not as the result of someone abusing a child and thereby creating the need for a foster care situation. The OIG would have allowed claims in which an authorized representative applied for the children in foster care where abuse or neglect may have been the cause of the placement. In the cases disallowed by the OIG for lack of a signed application by the applicant, parent or guardian, there were no reports of child abuse or neglect included in the Emergency Assistance case files. As mentioned previously, we requested that Child Line match the children in our sample to their database of reported abuse and neglect cases. The Child Line did not provide us with any information that showed that anyone reported any of the children as being abused or neglected. If DPW could have provided us with conclusive evidence that EA was needed because the children were removed from the home due to abuse or neglect, we would have accepted a caseworker’s signature.

Although our report relied on Federal Criteria, Pennsylvania’s own State Code, Title 55 Chapter 125.1 addresses the issue of who must sign an application form. The Pennsylvania Code requirements for signing of an application form are as follows:

“ Application is made on an application form approved by the Department ... The applicant, regardless of age, shall sign prior to filing the form ... Failure to sign shall result in the ineligibility of the person required to sign the form.”

The Pennsylvania State Code Title 55, Chapter 289.4 (Emergency Assistance Procedures) also states that “Emergency assistance grants are always paid directly to the client.” Our audit showed that DPW did not notify most of the clients that DPW applied for EA grants on their behalf. The clients never received the money, because DPW did not forward the funds to the applicant as required by the Pennsylvania Administrative Law.

**Application/Authorization Was Backdated**

For at least 35 claims in our statistical sample of 200 claims, either the application for EA services or the authorization of EA services was backdated. Projecting these errors to the universe of claims, we estimate that DPW was reimbursed \$5,415,887 in FFP for claims where backdating occurred. We also suspect

Sample Strata	Sample Population	# of Claims with Violation	Error %
Forestry Camps	100	1	1.0%
Castille	100	34	34.0%
Totals	200	35	

an additional six claims in our sample were backdated, but we were not able to conclusively prove that. We did not include these six claims in this individual estimate. Aside from this violation, all 35 claims violated at least 1 other provision of the Federal criteria.

### **Federal Criteria**

As mentioned previously in this report, an applicant must request EA before a valid claim can be filed. Timing of the application and the authorization for services are critical to FFP reimbursement. The FFP is generally not authorized prior to the receipt of an application or before an application is authorized. Backdating an application or an authorization, therefore, has the effect of making ineligible services appear eligible for FFP.

According to 45 CFR 234.120, FFP is available for assistance payments made in accordance with a State plan under titles I, IV-A, X, XIV, or XVI of the Social Security Act to any family or individual for periods beginning with the month in which they meet all eligibility conditions under the plan and for which an application has been received by the agency.

In addition, 45 CFR 206.10(a)(1)(ii) states the Agency “shall require a written application, signed under penalty of perjury.” Part IV-5214 of the Handbook of Public Assistance Administration states that all disbursements of assistance payments must be supported by a prior or simultaneous authorization of award. Further, House Committee Report Number 544, 90<sup>th</sup> Congress, 1<sup>st</sup> Session 109 (1967) states that “the payment of services must be necessary in order to meet an immediate need that would not otherwise be met.” Thus, if a child is already receiving the needed services, no need would exist for an additional EA payment for the same services.

### **Audit Results**

Of the 200 claims sampled, at least 35 had either the associated applications and/or authorizations backdated. Generally, DPW backdated so that the amounts claimed met the effective date of the State plan amendment or the date that the child received services (if after the effective date of the State plan amendment). The 35 claims totaled \$342,939 for which DPW was reimbursed FFP of \$171,469. We are questioning the entire amount claimed for FFP. We noted that the application forms used by DPW, contrary to Federal criteria (45 CFR 206.10(a)(1)(ii)), did not require the preparer or authorizer to sign “under penalty of perjury” that the information on the application form was accurate.

*Thirty-two claims* were supported by applications that were clearly backdated. The claims totaled \$302,053 for which DPW was reimbursed FFP of \$151,027. We are questioning all of the FFP because (i) DPW prepared applications for 31 claims in 1998, after we requested the applications, and (ii) we could not determine when the other application was actually prepared. The 32 applications had authorizations that were also backdated. All 32 claims related to Castille contracted placements.

One of the 32 claims had a backdated application which was both requested and approved by the same family court representative. The other 31 claims were based on applications prepared by

the same Philadelphia DHS representative. Another DHS representative authorized all 31 applications. Most of the applications were signed with the same blue ink pen and all were authorized with the same black ink pen. The application form used for these 31 claims contained the date when the form was first authorized for use as an application and authorization, form: EASA:12/94. The Philadelphia representatives who signed the applications dated their signatures for 23 claims prior to December 1994. Applications for the other eight claims were dated after December 1994. We questioned the two representatives who prepared the applications. They stated that they “reconstructed” the applications from other documentation on hand in their office. They said that they prepared the applications for the 31 claims in 1998 after we requested the applications because they could not find these applications in the files.

To reconstruct the applications, the staff members used information in the children’s case files. They stated that they often used applications for medical assistance or Title IV-E foster care as their basis to prepare EA applications. They indicated that this practice of reconstructing EA applications was also common in the past. We could not determine how many other applications were “reconstructed” and backdated during our audit and how many were backdated prior to our review.

For example, one claim was for a child who was committed to an institution in October 1993. The child was arrested for possession of a controlled substance with intent to deliver the controlled substance. The EA application was prepared and signed by a County representative, and dated November 1993--more than a year prior to the date that the application form was first authorized for use (December 1994). By backdating this claim, DPW was able to claim FFP for this child as of April 1, 1994, the date the Pennsylvania State Plan amendment became effective.

**Three claims** were supported by authorizations that were clearly backdated. The claims totaled \$40,886 for which DPW was reimbursed FFP of \$20,443. We are questioning the entire amount of FFP because it represents FFP reimbursed for services rendered from the date of the backdated authorization until the date of the application.

We determined that authorizations for three claims (one Forestry Camp claim and two Castille claims) were backdated by a single representative of the Family Court. This individual signed the authorizations for services prior to the application dates for two claims, and also prior to the date the use of the application forms were first authorized. Two applications were signed in January 1995. However, the services were authorized retroactive to April 1994, the month the State plan amendment expanding the EA program became effective. The application for the third claim was also authorized retroactively to April 1994--before the form date--although the application was undated. Claims for FFP were based on the dates of the backdated authorizations. The representative who authorized the EA services for the three claims could not remember why he backdated the authorizations, but agreed that the authorized dates were obviously backdated.

**Six claims** were supported by applications that we suspect were backdated. Because of the lack of a printed date on the application form, we cannot be absolutely certain that the applications

were backdated. Therefore, we are not questioning these claims. Nevertheless, we found certain indications that the applications were indeed backdated. For example:

- ✓ All six applications were signed in April 1994, before County representatives were initially contacted (on July 19, 1994) by DPW for training relative to the requirements for claiming EA and before the training was conducted in August 1994, and
- ✓ One application had an application date of March 27, 1995 and an authorization date of April 7, 1995. A Juvenile Probation representative crossed out both the application and authorization dates and backdated both dates to April 1, 1994. The representative also crossed out the authorization signature and added his own signature. The application signature was not crossed out. This same representative who altered the dates was the same person who had originally applied for EA. The crossed out dates and signature were still easily readable.

***Backdating may have been caused by DPW instructions*** which called for counties to claim FFP retroactive to the date that the State plan amendment became effective. In a letter dated August 10, 1994 from the DPW's Deputy Secretary for Children, Youth and Families to the Commissioner of DHS (Philadelphia County), the Deputy Secretary stated that it was critical that DHS conduct training so that staff could begin using the EA Intake/Authorization form as soon as possible. The Deputy Secretary referred to a meeting on July 19, 1994 which was intended to enable DHS to begin this training process in advance of the statewide training which began on August 1, 1994. In the letter, the Deputy Secretary stated that:

***“Counties will also be expected to convert cases that were active on April 1, 1994 to EA so that EA funds can be claimed back to the effective date of the State Plan Amendment.”***

Follow up letters for children placed with Castille providers, and for YDCs and YFCs reinforced these instructions. On November 4, 1994, the State provided Philadelphia County representatives with a list of 329 children placed with private agencies under the Castille program. The letter stated that:

- ☛ ***“In order to implement the EA claim process, I have enclosed lists of youth placed with (names deleted by OIG)”. OIG Note: These were the two largest Castille Providers.***
- ☛ ***“EA eligibility determinations should be made by your staff using the EA authorization form. As we have described in the EA training sessions, this form would be completed for the retroactive (conversion) determinations and the current determinations.”***



On October 12, 1995, the DPW provided Philadelphia probation representatives with a list of 248 children (458 claims) placed with YDCs and YFCs. The EA eligibility for these claims had not been entered into the State PEAPS database. The DPW also provided other counties with similar lists. The letter stated that:

- *“DPW staff have compiled a list of children who, according to their management information system, were in placement at a state facility for some period of time since April 1, 1994.”*
- *“The Department of Public Welfare is asking counties to determine the EA eligibility of these juveniles, to complete eligibility forms for the juveniles who are eligible, and to enter these juveniles into the PEAPS data base.”*

This letter coincided with the first claim that the DPW Office of Administration made for Forestry Camp costs. Claim rosters, covering the period April 1, 1994 through June 30, 1995, were also prepared in October 1995.

We question how these instructions, to enable claiming FFP back to the effective date of the State plan amendment, could be accomplished without the backdating of applications and authorizations. The instructions from DPW also seem to promote the mistaken belief that backdating EA applications was acceptable.

We noted that 53 of the 200 claims that we sampled were listed on the 2 letters--41 on the Castille letter, and 12 on the Forestry Camp letter. We determined that 19 of the applications for the 35 claims with backdated applications in our sample were for children listed on these letters, as was 1 of the 6 claims that we suspected was backdated. As discussed above, the 2 staff members responsible for preparing the backdated applications and authorizations for 31 claims stated they “reconstructed” EA applications requested by the OIG for review. They further indicated that this “reconstruction” also happened in the past. To “reconstruct” the applications, they used information in the children’s case files. We were unable to determine how many other applications were “reconstructed” and backdated during our audit and how many were backdated prior to our review as a result of DPW instructions and letters. Certainly, at least 35 were backdated.

All 35 claims violated other provisions of the Federal criteria. For example, all of the claims were prepared by County representatives and thus could be easily backdated. Six of the claims were for children who did not live with a specified relative 6 months prior to the claim. In total, the 35 claims contained 47 other violations.

### **DPW Response**

The DPW agreed that the dates on a number of EA service eligibility forms in the OIG sample of cases were backdated. The DPW does not believe that the backdating is an error so long as the information contained on the form accurately reflects what was done at the time.

Also, the DPW asserts that some of the backdating resulted from Federal policy which authorized States to use the date of a report of abuse or neglect as the application date. In a memorandum to all Title IV-A State Directors dated February 14, 1994, ACF advised States that "a report of suspected abuse from a reliable source could constitute an application for EA." This policy was subsequently expanded to include reports of neglect as well as abuse. Procedures for implementing this Federal policy were never provided by ACF. Accordingly, caseworkers were understandably confused about the proper dates to be inserted on the EA service eligibility form and it appears they often backdated EA forms to reflect reports of abuse or neglect in their files.

The DPW agreed that the EA service eligibility form could have been more clearly designed and the instructions for filling it out could have been more clear. However, the Federal policy unambiguously allowed use of the report of abuse or neglect as the application date. The DPW believes to the extent caseworkers used such a report to "backdate" the EA service eligibility forms, that action was both proper and acceptable.

### **OIG Comment**

The backdating was not done by caseworkers but by Financial Managers who rarely, if ever, saw or talked to the children and parents for whom they were requesting assistance. The 45 CFR 206.10(a)(1)(ii) states that "The agency shall require a written application, signed under penalty of perjury." The 45 CFR 234.120 indicates that assistance payments are not available until the period beginning with the month in which the family or individual meets all eligibility conditions under the plan and for which an application has been received by the agency.

In the cases disallowed by OIG for having backdated applications, there were no reports of child abuse or neglect included in the EA case files or attached to the EA forms that were backdated. In addition we requested that Child Line match the children in our sample to their database of reported abuse and neglect cases. The Child Line did not provide us with any information that showed that anyone reported any of the children as being abused or neglected.

Some of the backdating by the family court representative may have resulted from a March 24, 1995 letter sent to all Chief Juvenile Probation Officers concerning the "Implementation of the Title IV-A/EA Program." The letter from the Executive Director directed Probation Officers to:

"Complete EA application forms (see Appendix C in draft policies and procedures) for every juvenile referred to the juvenile probation department."

"These forms must also be completed, retroactively, for all juveniles who received services since April 1, 1994. (The service authorization date and the juvenile probation signature date should be April 1, 1994 for all cases referred for probation services prior to April 1, 1994 and who were receiving services on April 1, 1994.)"

As a result, the individuals responsible for backdating may have been following instructions promulgated by State officials.

**No Authorization**

Forty-six claims in our statistical sample of 200 claims were never authorized for EA program participation. Projecting these errors to the universe of claims, we estimate that DPW was reimbursed \$15,154,223 in FFP for these claims. Aside from this violation, 45 of these claims violated at least 1 other provision of the Federal criteria.

Sample Strata	Sample Population	# of Claims with Violation	Error %
Forestry Camps	100	24	24.0%
Castille	100	22	22.0%
Totals	200	46	

**Federal Criteria**

The 45 CFR 233.120(b)(3) states that Federal matching is available only for EA which the State authorizes during 1 period of 30 consecutive days in any 12 consecutive months. That does not mean that the services are limited to 30 days but rather that they must be authorized within a 30-day period and that the services could be rendered over a 12-month window. If an emergency extends beyond the 12-month service window, EA could continue only if it was re-authorized at the 12-month point.

Part IV-5214 of the Handbook of Public Assistance Administration states that all disbursements of assistance payments must be supported by a prior (or simultaneous) authorization of award. The Pennsylvania State plan recognizes the need for authorizations within a 30-day time frame.

**Audit Results**

Of the 200 claims sampled, 46 were not supported by applications that were properly authorized by DPW or County representatives. The 46 claims totaled \$764,892 for which DPW was reimbursed FFP of \$382,446. We are questioning the entire FFP.

*Thirty-four claims* totaling \$318,767 in FFP were also not supported by applications.

*Seven claims* totaling \$22,109 in FFP were supported by applications prepared by County representatives. These applications, however, were never authorized for the EA program.

*Four claims* totaling \$28,324 in FFP were supported by application/authorization forms which contained no application or authorization signatures.

*One claim* of \$13,246 in FFP was supported by an application signed by a parent. The application, however, was never authorized for the EA program.

We found that 45 of the 46 claims violated other provisions of the Federal criteria. In total, the 46 claims contained 50 other violations.

## DPW Response

The DPW did not comment on this finding.

### Service Provided Outside the 12-Month Service Window

Seventeen claims in our statistical sample of 200 claims were for services provided outside the authorized 12-month service window. Projecting these errors to the universe of claims, we estimate that DPW was reimbursed \$5,631,532 in FFP for services provided outside the 12-month period. Aside from this violation, 15 of 17 claims violated at least 1 other provision of the Federal criteria.

Sample Strata	Sample Population	# of Claims with Violation	Error %
Forestry Camps	100	15	15.0%
Castille	100	2	2.0%
Totals	200	17	

## Federal Criteria

Timing of the application and the authorization for services is critical to FFP reimbursement. According to 45 CFR 234.120, FFP is available for assistance payments made in accordance with a State plan under titles I, IV-A, X, XIV, or XVI of the Social Security Act to any family or individual for periods beginning with the month in which they meet all eligibility conditions under the plan and in which an application has been received by the agency. In addition, 45 CFR 206.10(a)(1)(ii) states the Agency “shall require a written application, signed under penalty of perjury”. Part IV-5214 of the Handbook of Public Assistance Administration states that all disbursements of assistance payments must be supported by a prior or simultaneous authorization of award. And, House Committee Report Number 544, 90<sup>th</sup> Congress, 1<sup>st</sup> Session 109 (1967) states that “the payment of services must be necessary in order to meet an immediate need that would not otherwise be met.”

Under the EA program, services could be provided up to 12 consecutive months from the date of the EA application authorization. Claims made for services provided beyond this 12-month service window without the benefit of a new authorization, were not allowable. Pertinent criteria follows:

- Section 406(e)(1) of the Social Security Act states that EA can be “furnished for a period not in excess of 30 days in any 12-month period.”
- The 45 CFR 233.120(b)(3) states “Federal matching is available only for emergency assistance which the State authorizes during one period of 30 consecutive days in any 12 consecutive months.”

The ACF's practice was that EA services could be authorized and provided for a period not to exceed 12 consecutive months. A new authorization was required to continue EA services beyond the original 12-month window. The Pennsylvania State plan stated that the EA services were to be provided until the emergency condition was alleviated. We believe that this provision in the State plan must be taken in conjunction with the Federal criteria and ACF practice which was to allow the services to be continued within the 12-month window and beyond only if there was a re-authorization.

## **Audit Results**

Of the 200 claims sampled, 17 claims were for services that were provided outside the 12-month authorized service window. The 17 claims totaled \$373,852 for which DPW was reimbursed FFP of \$186,926. We are questioning FFP of \$133,348 (the difference represents allowable FFP for services provided during the 12-month service window).

*We found nine claims* for which the reported emergency on which the claim was based had ceased and services halted before the application was even prepared. For example, an 18 year old child was arrested for burglary, theft, receiving stolen property, and conspiracy. As a result the child was placed in a YFC from March 1994 to January 1995. Not until November 1995, 10 months after the child was released from the YFC, did a juvenile probation representative prepare an EA application. On the same November 1995 day, the probation representative who prepared the EA application also authorized the application. The \$13,466 claim we reviewed was for the 91-day period from April 1, 1994 to June 30, 1994. This case was a clear violation of Congressional intent as indicated in the House Committee Report cited previously.

Services were provided up to 675 days prior to the dates of the applications for the nine claims, or an average of 502 days. The first YFC claim for EA was submitted in October 1995, more than 18 months after the effective date of the State plan amendment of April 1, 1994. The DPW, retroactively deciding to claim costs incurred in the prior 18 months, failed to consider the Federal requirements for an application signed by a parent or guardian prior to a claim for EA and the 12-month service window limitation.

*Eight claims* for detention services were provided beyond the 12-month service window. The 8 claims totaled \$134,064 for which DPW was reimbursed FFP of \$67,032. We are questioning FFP of \$45,990 (the difference represents allowable FFP for services provided during the 12-month service window).

In determining if the claims were for services provided within the 12-month service window, we obtained the dates of service for all claims in our sample and compared those to the dates of the EA applications and authorizations. On average, applications for the eight claims preceded the dates of service by 452 days or 87 days beyond the 12-month service window. Only five of the eight claims had services provided within the 12-month service window. Services provided under the remaining three claims were all outside the 12-month service window.

This condition was due to the widespread practice of continuing claims for children in institutions for as long as they remained in those settings, without any regard for the 12-month service window. For example, a juvenile probation representative from Montgomery County prepared and signed an application for one child in September 1994. The service dates for our sample claim were in December 1995 for a stay at the Bensalem Secure Facility. The service dates were more than 12 months after the EA application date. We noted that the child was in various detention centers or on probation continuously since February 1989 through the end date of the claim after he was arrested for robbery, theft and unlawful taking and receiving of stolen property. Since April 1, 1994, the date the child was initially claimed for Emergency Assistance, the child was admitted to: the Montgomery County Youth Center 5 different times; the Delaware County Youth Center 2 different times; and was admitted once to Vision Quest, Youth Forestry Camp #2, and the Bensalem Youth Detention Center.

We found that 15 of the 17 claims violated other provisions of the Federal criteria. For example, 15 claims were not supported by an application signed by a parent or guardian. In total, the 17 claims contained 23 other violations.

### **DPW Response**

The DPW stated that the audit claims that Federal law limited the State to a 12-month authorization period and the audit cites an anonymous ACF employee for this interpretation. However, ACF's policy was that there was no arbitrary limitation on the length of an emergency. In a memorandum dated January 5, 1993, the Director of the Office of Family Assistance stated that none of the official policy statements previously issued by ACF "establishes a specific time standard for determining when a particular type of assistance may no longer be viewed as addressing an emergency. Accordingly, a Federal determination that a proposed time limit for providing EA is too long would have to be based on a finding that the proposed duration of assistance is longer than necessary to respond to the emergency."

The DPW asserts that the OIG is well aware that ACF has approved EA service authorization periods in excess of one year. In its 1995 audit report entitled "Review of Rising Costs in the Emergency Assistance Program," OIG noted that one state had been permitted to increase its eligibility period "from 6 months to as long as the emergency exists." Pennsylvania is a second State that was permitted such an expansion. Pennsylvania's approved State plan states in highlighted underlined language that services will be provided until the emergency condition is alleviated.

Pennsylvania's approved State plan language expressly permits service authorization periods in excess of 1 year. Consistent with its view that no arbitrary limitation could be imposed upon authorization periods, ACF approved that language. It is both unfair and unlawful for OIG to retroactively impose an arbitrary 12 month limit in its audit criteria.

## OIG Comment

Emergency Assistance authorizations are valid for only a 12-month period. The purpose of the EA program was to provide temporary financial assistance and supportive services to eligible families experiencing an emergency. Section 406(e)(1) of the Social Security Act states that EA can be “furnished for a period not in excess of 30 days in any 12-month period.” The 45 CFR 233.120(b)(3) states Federal matching is available during one period of 30 consecutive days in any 12 consecutive months. The ACF officials confirmed the criteria we were using was in effect and valid when the claims were filed.

The State agency claimed FFP under the EA program for services provided to clients more than 12 months after the date of the clients’ application. For example, the State agency claimed FFP for adjudicated delinquents detained at detention centers for more than a year. Some of the claims that the OIG disallowed were for children who committed serious crimes and were sentenced to detention for many years.

The Social Security Act Section 406(e)1 allows EA services to be furnished for a period not in excess of 30 days in any 12-month period. The 45 CFR 233.120(b)(3) likewise required that EA services be authorized in a 30-day period. If any need for EA occurs after the 30-day period, the applicant must wait a minimum of 12 months from the date of the last EA application submission before submitting another EA application.

Pennsylvania’s approved State Plan language follows the regulation closely on this issue. The plan reads as follows: “services will be provided until the emergency condition is alleviated and must be authorized during a single 30-day period no less than 12 months after the beginning of the family’s last EA authorization period.”

Although our audit relied on Federal criteria, Pennsylvania’s own State Code Title 55, Subpart I, Chapter 289.3(c) Emergency Assistance “Requirements” was also violated. The Pennsylvania Code states:

*“Period of eligibility. Emergency assistance will be authorized only for one period of 30 consecutive days in any 12-consecutive months. The 30-day period begins on the date emergency assistance is authorized. During the 30-day period following the authorization date, shelter costs as described in § 289.4(a)(2) (relating to procedures) may be authorized when required to meet an emergency situation. Although more than one payment may be authorized during the 30-day period, no emergency assistance may be authorized after the 30-day period has expired. An individual or family may again be eligible for emergency assistance 12 months from the date emergency assistance was first authorized.”*

**Unrelated Claim Within 12-Month Service Window**

Thirty claims in our statistical sample of 200 claims were for children with a prior unrelated EA claim during the same 12-month service window. Projecting these errors to the universe of claims, we estimate that DPW was reimbursed \$9,317,609 in FFP for claims for these children. Aside from this violation, 27 of these claims violated at least 1 other provision of the Federal criteria.

Sample Strata	Sample Population	# of Claims with Violation	Error %
Forestry Camps	100	16	16.0%
Castille	100	14	14.0%
Totals	200	30	

**Federal Criteria**

The 45 CFR 233.120(b)(3) states that Federal matching is available only for Emergency Assistance which the State authorizes during one period of 30 consecutive days in any 12 consecutive months. Part IV-5214 of the Handbook of Public Assistance Administration states all disbursements of assistance payments must be supported by a prior or simultaneous authorization of award.

The ACF provided additional clarification of the criteria as follows:

- States must properly authorize EA. There can be only one 30-day authorization period for EA services in a 12-month period. One or more authorization actions related to the emergency can occur within this period.
- Additional EA services within the 12-month period that were not authorized during the original 30-day authorization period are not eligible for Federal reimbursement. This is because these additional services constitute a second emergency within the 12-month period.

The Pennsylvania State plan recognized that a second emergency within 12 consecutive months of a prior unrelated emergency was not eligible for EA services. The note in Section 3C(3)(4) to the State plan Transmittal # 94-01-AFDC states that EA “must be authorized during a single 30-day period no less than 12 months after the beginning of the family’s last EA authorization period.” In a Children, Youth and Families Bulletin dated April 21, 1995, DPW stated that “Verification of this 12-month minimum requirement for service authorization will be done through use of the Pennsylvania EA Software Program.” The DPW also stated that when matches occur, “the county children and youth agency will need to make a determination as to whether the situation is a continuation of the initial emergency or if it is a new emergency for the child. In the former instance, the child is eligible for the EA service; in the latter instance, the



child would not be eligible for EA service as a new emergency condition would have occurred within 12 months of a prior authorization of an EA service.”

### **Audit Results**

Of the 200 claims sampled, 30 were for children with a prior unrelated EA claim during the same 12-month service window. In our opinion, these claims represent second emergencies and are not eligible for FFP under the EA program. The 30 claims total \$467,401 for which DPW was reimbursed FFP of \$233,701. We are questioning all of the FFP.

*There were 13 claims* for which we were provided copies of prior applications for separate emergencies unrelated to the emergency involved in our sample claim. These other applications were prepared within the same 12-month service window as were our sample claims. For example, a Castille claim in our sample was for a child’s 22-day stay in the Vision Quest detention center in March 1995. The child was arrested for known possession of a controlled substance in February 1995. The EA application and authorization for this incident was also dated in February 1995. We determined, however, that there was one other application for services authorized by a Family Court representative in April 1994, well within the 12-month service window established by Federal criteria. This application was for probation services related to a prior burglary. Since there were two authorizations within the 12-month service window, we concluded that there were two separate emergencies, and that the second emergency--our sample claim--was ineligible.

*There were 17 claims* for which we were not provided copies of prior applications. We know, however, that other EA services were provided to the children for whom the 17 claims were submitted. The other EA services were provided:

- ☞ Prior to the dates of the reviewed applications for the 17 claims in our sample; and
- ☞ within the same 12 month service window as the 17 claims in our sample.

In our opinion, these other EA services were unrelated to the claims that we sampled as evidenced by either separate arrests, unrelated services, or breaks in stay for the 17 claims in our sample. For example, a YFC claim in our sample was for a child’s 132-day stay from August 1995 to December 1995. The child was arrested for armed robbery in July 1995 and was placed in the detention facility as a result of this arrest. We were not provided an EA application for this arrest. However, we were provided an application which was prepared by Allegheny County in March 1995. The March 1995 application was signed for by the child’s mother after the child was arrested in March 1995 for drugs. Although we were not provided another EA application, we noted that this child was claimed for EA by the Allegheny County probation department since March 1995, as a result of the drug charges. The probation claims related to the drug arrest were 4 months prior to the armed robbery arrest of July 1995. The charges in this case are not related. Based on DPW’s April 21, 1995 instruction, the 30 claims should have been identified as “matches” in PEAPS and reviewed manually to determine if they were second emergencies. We

found no indication that any of the claims were identified, probably because the counties and DPW did not make full use of PEAPS.

We found that 27 of these 30 claims violated other provisions of the Federal criteria. For example, we noted that only three of the claims were supported by applications that were signed by a parent or guardian. In total, the 30 claims contained 40 other violations.

### **DPW Response**

The DPW believed that ACF policy permitted the authorization of additional services within the service authorization period if the additional services resulted from a continuation of the initial emergency. In a policy clarification dated August 24, 1994, the Director of the Office of Family Assistance specifically advised that New Jersey's provision of juvenile detention care or foster care following failed preventive family preservation services did not violate the single authorization requirement of Federal law. The Director noted that "the precedent for this type of authorization is the current practice of many States in authorizing EA for very general family preservation and reunification services." Pennsylvania adopted the continuum of services concept in the Children, Youth and Families Bulletin cited in the OIG report.

The DPW also stated that OIG misapplied Federal policy by ignoring the continuum of services concept. The OIG appears to have erroneously treated each new service, each break in service, and each new arrest as ending the prior authorization period.

### **OIG Comment**

In addition to the Federal criteria cited in the report, we found that the DPW State plan recognized that a second emergency within 12 consecutive months of a prior unrelated emergency was not eligible for EA services. In a Children, Youth and Families Bulletin dated April 21, 1995, DPW stated that verification of the 12-month minimum requirement for service authorization would be done through use of the PEAPS. When matches occur, there must be a review made to determine if the current situation is a continuation of the initial emergency or if it is a new emergency for the child. New emergencies would not be eligible for EA services.

Although our audit relied on Federal criteria, Pennsylvania's own State Code Title 55, Subpart I, Chapter 289.3(c)(1) (Emergency Assistance Requirements "Period of Eligibility") was violated. The Pennsylvania Code states:

“ The second emergency assistance authorization in any 12-consecutive month period is solely State funded.”

We allowed claims for all services related to a single emergency within a 12-month period. Such services could include: a claim for an arrest, placement in a detention facility, and subsequent probation. However we disallowed claims for a second emergency within a 12-month period. Emergencies we questioned were as a result of new emergencies occurring after the 30-day authorization window. Thirteen of the cases we cited had more than one EA application prepared by county officials. This is a clear sign that the county official believed that the emergencies were not related.

**Service Claimed Was Not Provided**

Ten claims in our statistical sample of 200 claims were for services which were not provided. We questioned eight claims in total because we were not provided any support to show that the children for whom the claims were made actually received the services claimed. In fact, records showed that seven of the eight children were released from the facilities claiming to be housing them prior to the claim that we reviewed. We partially questioned an additional two claims because the children were at a different, less costly, facility or received a less costly level of service than claimed. Projecting these errors to the universe of claims, we estimate that DPW was reimbursed \$2,138,062 in FFP for services that either were not provided or were provided at less cost. Aside from this violation, all of these claims violated at least one other provision of the Federal criteria.

Sample Strata	Sample Population	# of Claims with Violation	Error %
Forestry Camps	100	2	2.0%
Castille	100	8	8.0%
Totals	200	10	

**Federal Criteria**

The 45 CFR 206.10 (a)(8) states “Each decision regarding eligibility or ineligibility will be supported by facts in the applicant’s or recipient’s case record.” The ACF provided specific guidance concerning EA claim costs which stated that costs not supported by documentation were unallowable. A policy information memorandum, dated February 8, 1973 issued by the former U.S. Department of Health, Education, and Welfare (Policy #21) prescribes adequate documented evidence of program costs as necessary to receive FFP. Fiscal records must support the expenditures. Agency records must identify separately each EA case, to facilitate State and Federal review.

**Audit Results**

Of the 200 claims sampled, 10 were claimed for services that were not provided. The 10 claims totaled \$199,394 for which DPW was reimbursed FFP of \$99,697. We are questioning FFP of

\$62,676, which represents that portion of the claim unsupported or supported for a lower payment rate.

For our analysis, we requested evidence of vendor documentation to support the EA costs claimed by DPW for FFP reimbursement. The Forestry Camp children were supported by a detailed YDC/YFC tracking and billing system which listed the facility, the number of days, and level of security the child was placed in. The Castille claims were supported by vendor bills which listed the names of the children staying at the facilities, the number of days, and the billing rate. For both the Forestry Camp and Castille children, information from the children's criminal records was also reviewed to determine arrest dates, placement dates, reason for placement and release dates.

***We questioned eight claims in total.*** The FFP reimbursed for these claims totaled \$45,571. Vendor bills for these eight children showed that the vendor did not bill these children to DPW because they were not located at the facility that was claimed by DPW. For seven of the eight children, criminal placement histories showed that the children did stay at the facility in the past, however the children were released prior to the period claimed for EA. For the other child, a criminal placement history did not exist. The DPW claimed these children for EA even though the children were released, were unknown or were placed at other facilities. Two of the eight children were also claimed by DPW for staying at other facilities during the period of the claim that we reviewed. For example, we reviewed a claim of \$5,667 in FFP for one child from April 1995 through June 1995. The child's criminal placement record showed that the child was committed to Vision Quest after being arrested for unauthorized use of an automobile, theft, and receiving stolen property in February 1994. In December 1994 he was released. DPW continued to erroneously claim this child for EA through September 1995. The FFP claimed amounted to \$17,173 in 1995 from the facility that released the child in December 1994. In addition, the same child was arrested again in March 1995 for theft and was adjudicated in May 1995 and placed in the Youth Study Center for 11 days at \$324.25 per day, and then committed to the YDC Forestry Camp #2 at \$141.49 a day. During the same time period, Castille claims of \$17,173 were erroneously made for this child, as the YFC claims of \$21,818 were made. Thus, this child was double claimed for EA.

***We partially questioned two claims.*** The FFP for these claims totaled \$54,126 of which we questioned \$17,105. The two bills were both for Forestry Camp children. The DPW provided detailed YDC/YFC tracking and billing system tracking sheets which listed the facility, the number of days, and level of security the child was placed in. The two children were listed on the tracking sheets. However, the tracking sheets showed that one child was transferred during the EA claim period from a more expensive secure delinquent institution costing \$304.83 a day to another secure delinquent institution that cost only \$191.77 per day. The other child was also transferred during the claim period from the Secure Unit at New Castle to the regular population. Both of the children were billed at the higher costing institution or unit for the entire period claimed.

All 10 claims violated other provisions of the Federal criteria. Nine of the claims, for example, were not supported by an application signed by a parent or guardian, and three of the claims were never authorized. In total, the 10 claims contained 17 other violations.

### DPW Response

The DPW did not comment on this finding.

#### Duplicate Billing for Same Service

Four claims in our statistical sample of 200 claims represented duplicate billings. Three of the claims were double billed for services for a part of the time claimed for EA and one claim was totally double billed. We considered a claim to be double billed when the same child was claimed for daily per diem from two different delinquent institutions for the same day or days. The four claims in our sample totaled \$12,954 in FFP. We determined that \$9,393 of that amount was for costs of days that were double billed by different institutions. Aside from this violation, these claims contained six other violations of Federal criteria.

Sample Strata	Sample Population	# of Claims with Violation	Error %
Forestry Camps	100	2	2.0%
Castille	100	2	2.0%
Totals	200	4	

Because of the small number of claims identified as duplicated in our sample, we did not make an individual projection for this violation.

### Federal Criteria

The OMB Circular A-87, (effective for costs incurred after September 1, 1995 or the beginning of the State's fiscal year) describes allowable billing practices. Similar language was contained in the earlier version of A-87 which covered costs incurred prior to September 1, 1995. Essentially, a valid claim for EA can only be billed to the Federal Government once. Double billings for the same service are not allowable, since the duplicate costs were not incurred.

### Audit Results

Of the 200 claims sampled, 4 represented duplicate charges to the EA program. Our review of the support for EA bills and children's criminal histories showed that the four children were being billed FFP for EA services from more than one facility for the same time period. The four claims in our sample totaled \$12,954 in FFP. We determined that \$9,393 of that amount was for cost of days that were double billed by different institutions.

***One claim was totally duplicated.*** For this case we reviewed a claim for FFP of \$5,667 for a 91 day stay at Vision Quest. The child's records showed that he did not stay at Vision Quest but was incarcerated at the Bensalem Secure Facility for the entire 91 days. The DPW also billed FFP of \$13,491 for staying at Bensalem Secure during the same 91-day period, April 1995 through June 1995. Thus the child was invoiced twice, once for Vision Quest and then again for Bensalem Secure, for the same days. A child cannot reside in two institutions at the same time.

***Three claims were partially duplicated.*** In these cases the children were claimed for the same time period at two institutions for an overlapping period. The FFP claimed was \$7,287 of which we found \$3,725 to be the duplicated portion of the bills. For example, we reviewed a claim for a 9 day stay at the New Castle Secure facility from July 1 to July 9, 1994 in the amount \$663 FFP. Our review of other EA claims for the child, and the child's discharge summary showed that the child entered a Vision Quest facility on July 5, 1994, and was billed from both facilities.

Since we found only four examples of duplicate claims in our sample, we believe they may have been inadvertent errors resulting from poor recordkeeping.

These four claims also contained six other violations including three claims that lacked a parent or guardian signature on the application, and two claims where there was no evidence that the cost were incurred.

#### **DPW Response**

The DPW did not comment on this finding.

### **CONCLUSIONS AND RECOMMENDATIONS**

Widespread violations of Federal regulations by DPW in claiming EA costs associated with Forestry Camp and Castille claims occurred in FYs 1995 and 1996 with the result that about \$51.5 million of the \$60.5 million of FFP reimbursed to DPW during that period was for unallowable Forestry Camp and Castille claims. The majority of the claims reviewed contained multiple violations of Federal criteria, ranging from children not living with a specified relative within 6 months of the application for EA, to parents or guardians being excluded from the application process, to the widespread backdating of documents by County representatives. The services were not even provided for some of the claims.

The EA program was eliminated by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 which created the TANF block grant. We are, therefore, not making any procedural recommendations. We recommend that DPW:

- ☛ Refund to the Federal Government \$51,484,262 for FFP associated with unallowable EA claims invoiced by the DPW for Forestry Camp and Castille claims in FYs 1995 and 1996.

## SAMPLING METHODOLOGY

### Review Objective:

The objective of our review was to determine if EA costs of \$60.5 million claimed by DPW for children who resided at Youth Development Centers, Youth Forestry Camps, and Castille contracted detention facilities meet Federal criteria pertinent to the Title IV-A EA Program.

### Population:

The population of EA claims we statistically sampled totaled 7,364. These claims consisted of:

- ☞ 4,278 claims invoiced by DPW's Office of Administration for children who resided at Youth Development Centers and Youth Forestry Camps.
- ☞ 3,086 claims invoiced by DPW's Office of Children Youth and Families for children who resided at Castille contracted detention facilities.

We identified these claims based on Forestry Camp claims listed on four claim rosters, and Castille claims listed on five claim rosters. These EA claims were submitted for FFP for costs incurred from April 1, 1994 through December 31, 1995 and reimbursed by the Federal Government.

### Sampling Frame:

In total, we had a sample population of 7,364 EA claims totaling \$118 million (\$59 million Federal share).

- ✓ Four alphabetical claim rosters in Youth Development Centers and Youth Forestry Camps sequenced from DPW's Office of Administration. These lists contained 4,278 claims valued at \$92 million (\$46 million FFP).



- ✓ Five claim rosters in alphabetical order by Castille institution invoiced by DPW's Office of Children Youth and Families which contained 3,086 claims valued at \$26 million (\$13 million FFP).

**Sample Unit:**

The sampling unit for Forestry Camp and Castille claims was an individual EA claim for a child and one type of service on a claim.

**Sample Design:**

We utilized stratified variable random sampling techniques for Forestry Camp claims listed on four claim rosters, and Castille claims listed on five claim rosters.

**Sample Size:**

We selected a sample of 200 claims for review, consisting of:

- 100 Forestry Camp claims listed on four claim rosters.
- 100 Castille claims listed on five claim rosters.

**Source of Random Numbers:**

The random numbers for selecting the sample items were generated using an approved Department of Health and Human Services, Office of Inspector General, Office of Audit Services, statistical software package that has been validated using the National Bureau of Standards methodology. The numbers were generated for both strata independently.

**Method of Selecting Sample Items:**

The sample claims contained in the four Forestry Camp claim rosters were numbered sequentially and independently. Sample claims for the Castille claims listed on five claim rosters were taken from two databases used by DPW to develop the five claim rosters. We arranged the databases by names alphabetically on a last name, first name basis.

Two sets of 100 random numbers were drawn; the first 100 were for the four Forestry Camp claim rosters, the second 100 were for the five Castille claim rosters. The random numbers were correlated to the numbered sample items in each roster, database, or list.

## SAMPLE PROJECTIONS

### Results of Sample:

The results of our review of 200 sample claims are as follows:

Sample Results					
Stratum Number	Number of Claims in Universe	FFP Value of Universe	Sample Size	Number of Claims with Violations	FFP Value of Violations
1 (Forestry Camps)	4,278	\$45,977,902	100	96	\$1,008,695
2 (Castille)	3,086	\$12,961,219	100	96	\$427,060
<b>Total</b>	<b>7,364</b>	<b>\$58,939,121</b>	<b>200</b>	<b>192</b>	<b>\$1,435,755</b>

### Variable Appraisal Projections:

✓	Number of claims with errors identified in the sample:	192
✓	Value of errors identified in the sample:	\$1,435,755
✓	Point estimate unallowable FFP (Difference Estimator):	\$56,331,062
✓	Upper limit unallowable FFP (90 Percent confidence level):	\$62,748,130
✓	Lower limit unallowable FFP (90 percent confidence level):	\$49,913,995

Using statistically valid sampling techniques, we estimate with 95 percent confidence that at least \$49,913,995 of the \$58,939,121 claimed was unallowable for Federal reimbursement. Our point estimate was \$112,662,125 (\$56,331,062 Federal share) with a precision of plus or minus \$12,834,134 (\$6,417,067 Federal share).



COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF PUBLIC WELFARE  
P.O. BOX 2675  
HARRISBURG, PENNSYLVANIA 17105-2675

OCT 06 1999

Jeffrey M. Logan  
Deputy Secretary for Administration

(717) 787-3422  
Email: jefflo@dpw.state.pa.us

Mr. David M. Long  
Regional Inspector General for Audit Services  
Department of Health and Human Services  
150 South Independence Mall West, Suite 316  
Philadelphia, Pennsylvania 19106-3499

Re: Costs Claimed Under Title IV-A Emergency Assistance for  
Children and Youth Development Centers, Youth Forestry Camps,  
and Castille Contracted Detention Facilities  
CIN #A-03-98-00594

Dear Mr. Long:

I am writing to provide you with the comments of the Pennsylvania Department of Public Welfare on the above referenced draft audit. The Office of Inspector General (OIG) has not allowed us sufficient time to conduct a comprehensive review of the workpapers or to review source documentation. Accordingly, we are unable to assess the individual sample errors alleged in your report. OIG has also withheld the audit guide from us as well as the source documentation supporting the audit criteria which have been applied here. Nonetheless, we have attempted to evaluate your findings and respond to them.

**The OIG Audit Was Prohibited by Federal Law**

When welfare reform was enacted into law in 1996, Congress provided Federal agencies with instructions for winding up the outstanding accounts related to the repealed Title IV-A programs including Emergency Assistance (EA). Section 116 of the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) explicitly stated that the head of each Federal agency "shall use the single audit procedure to review and resolve any claims in connection with the close out of programs" under Title IV-A. While the Single Audit Act does not limit the authority of OIG to conduct additional audits, 31 U.S.C. §7503(c), PRWORA clearly states that the closing out of accounts between the State and Federal governments is to be accomplished via the single audit procedure, not an exception to that procedure.

Mr. David M. Long

2

Your audit was conducted more than a year after Pennsylvania's termination of its old Title IV-A program and was conducted outside of the parameters of the single audit act. It was therefore conducted in express contravention to Federal law. Moreover, as is more fully explained below, we believe that OIG applied erroneous audit criteria to determine that sample cases were in error. Accordingly, we not only reject the audit as illegal, we reject its findings as both factually and legally wrong.

### OIG Applied Audit Criteria Which Was Never Communicated to the States

Federal law is clear that the propriety of expenditures made under a Federal grant-in-aid program such as EA must be judged "by the law in effect when the grants were made." Bennett v. New Jersey, 470 U.S. 632, 105 S.Ct. 1555 (1985). Under the Freedom of Information Act (FOIA), States may not be bound by Federal interpretations unless they are either published, properly indexed, or the State has "actual and timely notice of the terms thereof." 5 U.S.C. §552(a)(1). In the words of the Department of Health and Human Services' (HHS) own Departmental Appeals Board, "the State cannot be fairly held to the Agency's interpretation if the State did not receive adequate, timely notice of that interpretation in the context where there was another reasonable interpretation relied on by the State." Illinois Department of Children and Family Services, DAB No. 1335 (1992).

Under the foregoing basic principles of Federal grant law, OIG had a duty to validate the legal effectiveness of the audit criteria it applied to Pennsylvania by insuring that each criterion was both officially adopted as policy by the Administration for Children and Families (ACF) and was communicated to the States in a timely fashion. Such validation of the audit criteria is part of the basic obligations imposed by the planning, due professional care, and independence requirements of Government Audit Standards (GAS). Without such validation, OIG is not conducting a bona fide professional audit. The audit becomes a political and rhetorical document which shows only the amounts of money which might have been saved had more restrictive criteria been legally adopted and communicated to the States.

OIG did not validate the legal effectiveness of the audit criteria applied in this matter and, as a result, the audit here is not an audit at all in the professional sense of the word and does not comply with GAS. As noted above, the audit only shows the amounts of money which might have been saved had the program been run differently by ACF. This point is perhaps best illustrated by the draft report's citation to a conversation with an unidentified ACF official as the source for OIG's conclusion that "longstanding Office of Family Assistance policy required that the individual family, not the State agency, had to file an application for EA benefits and services." Draft report, p. 15. The anonymous official's interpretation plainly conflicts with the cited underlying regulation which expressly states that an application can be filed by an authorized representative or someone acting responsibly for the applicant. 45 C.F.R.

Mr. David M. Long

3

§206.10(a)(1)(ii). Moreover, the anonymous official's interpretation has never been communicated to the States or even officially adopted by ACF. The fact that OIG cited Pennsylvania for a \$52.5 million overpayment based upon an interpretation which is facially inconsistent with the language of the underlying regulation, and which interpretation was provided by an ACF official whose name is not even disclosed in the report, demonstrates why we reject the findings of your review as unreliable and wrong.

### **Child Did Not Live With Specified Relative**

OIG concluded that Pennsylvania spent over \$9 million on claims for children who did not live with specified relatives within six months of the date of application. OIG appears to have determined a case to be erroneous whenever the child was in residential care more than six months prior to the date EA was authorized.

We agree with your finding that \$322,902 in Federal Financial Participation (FFP) was incorrectly claimed for children who were in detention for more than six months prior to the April 1, 1994 effective date of Pennsylvania's state plan. However, we disagree with your finding that an additional \$8.9 million in FFP was overpaid. OIG ignored Federal policy which establishes the date of a report of abuse or neglect as the date of application for EA. The Federal government has long recognized that a large percentage of delinquent children have a history of abuse and neglect. See e.g. Combating Violence and Delinquency, The National Juvenile Justice Action Plan (March 1996), p. 66. Such children would be covered by the policy which uses the date of an abuse or neglect report as the application date for EA. OIG made no effort to ascertain a history of abuse or neglect with respect to the children in question and OIG did not apply the correct application date with respect to these children.

Any child who was living with a specified relative within six months of a report of abuse or neglect is eligible for EA regardless of the date when the EA service eligibility form was completed. Accordingly, we reject OIG's conclusion that Pennsylvania was overpaid by \$8.9 million due to children not living with specified relatives.

### **No Signed Application By Parent or Guardian**

OIG asserts that Pennsylvania was overpaid by over \$52 million in FFP because parents did not sign the EA service eligibility form. This assertion by OIG is inconsistent with the clear language of ACF regulations, contrary to established Federal policy, and is flat out wrong.

Mr. David M. Long

4

As noted in your report, ACF's position is that the Federal regulation at 45 C.F.R. 206.10 applies to EA. However, OIG has refused to apply that portion of the regulation which expressly states that an application may be filed by an "authorized representative" or "where the applicant is incompetent or incapacitated, someone acting responsibility for him." 45 C.F.R. §206.10(a)(1)(ii). This language plainly includes a social service agency acting on behalf of a minor child.

We are aware that certain ACF staff have recently adopted the position that an application for EA must be filed by the family, not the State. However, the position urged by ACF staff is a new one, and was never formally communicated to the States. In the early 1990s, ACF expressly approved a procedure by which the Connecticut Commissioner of the Department of Children and Families could apply on behalf of each foster child by sending a request for EA in the form of a memo. In North Carolina Department of Human Services, DAB #1631 (1997), the HHS Departmental Appeals Board noted that ACF agreed that the EA "application may be submitted by the child's parent or a responsible adult or by a social service agency acting on behalf of the child."

The right of a social service agency to sign an application for a child in the custody of the county is also confirmed in prior Departmental Appeals Board decisions. Thus, for example, in Louisiana Department of Health and Human Services, DAB No. 989 (1988) the Appeals Board interpreted the companion Medicaid regulation to §206.10 and stated that "it would be unreasonable to expect a very young child to sign the form, and the caseworker, representing the State, is a likely person to verify the information on the form. Neither the regulation (42 C.F.R. §435.907) nor the State plan mandate that the child or parent must sign, and there apparently is no bar to the caseworker being the sole signatory."

Parental signature requirements only make sense in the context of a child who is living in a family situation. When a child is taken into custody, the local agency acts in loco parentis and does everything the parent would do, including making application for government benefits. The OIG audit criterion of a parent signature on the EA application is not only contrary to the plain language of the regulation and ACF's prior interpretations, it also is nonsensical. The interpretation advances no sound public policy in the context of children who have been removed from the home setting.

#### **Application/Authorization Was Backdated**

DPW agrees that the dates on a number of EA service eligibility forms were backdated. We do not believe that the backdating is an error so long as the information contained on the form accurately reflects what was done at the time.

Mr. David M. Long

5

Some of the backdating resulted from Federal policy which authorized States to use a report of abuse or neglect as the application date. In a memorandum to all Title IV-A State Directors dated February 14, 1994, ACF advised States that "a report of suspected abuse from a reliable source could constitute an application for EA." This policy was subsequently expanded to include reports of neglect as well as abuse. Procedures for implementing this Federal policy were never provided by ACF. Accordingly, caseworkers were understandably confused about the proper dates to be inserted on the EA service eligibility form and it appears they often backdated EA forms to reflect reports of abuse or neglect in their files.

We agree that the EA service eligibility form could have been more clearly designed and the instructions for filling it out could have been more clear. However, the Federal policy unambiguously allowed use of the report of abuse or neglect as the application date. To the extent caseworkers used such a report to "backdate" the EA service eligibility forms, that action was both proper and acceptable.

### **Improper Authorization**

OIG cited Pennsylvania for 46 errors based upon improper authorizations. Thirty-four of the errors are based upon no application being found to support the authorization. The remaining errors involve alleged deficiencies in filling out the forms. We have not had time to review the workpapers or source documentation for these errors and therefore we cannot comment on them at this time.

### **Service Provided Outside of the 12 Month Service Window**

The draft audit claims that Federal law limited the State to a 12 month authorization period. In support of this position, the draft audit again cites an anonymous "ACF official" for this interpretation, which has never been officially adopted by ACF nor provided to the States. Draft audit, p. 24.

The interpretation provided by the anonymous ACF official is wrong. ACF's policy was that there was no arbitrary limitation on the length of an emergency. In a memorandum dated January 5, 1993, the Director of the Office of Family Assistance stated that none of the official policy statements previously issued by ACF "establishes a specific time standard for determining when a particular type of assistance may no longer be viewed as addressing an emergency." Accordingly, a Federal determination that a proposed time limit for providing EA is too long would have to be based on a finding that the proposed duration of assistance is longer than necessary to respond to the emergency."

Mr. David M. Long

6

OIG is well aware that ACF has approved EA service authorization periods in excess of one year. In its 1995 audit report entitled "Review of Rising Costs in the Emergency Assistance Program," OIG noted that one state had been permitted to increase its eligibility period "from 6 months to as long as the emergency exists." Pennsylvania is a second state that was permitted such an expansion. Pennsylvania's approved state plan states in highlighted underlined language that "services will be provided until the emergency condition is alleviated."

Pennsylvania's approved state plan language expressly permits service authorization periods in excess of one year. Consistent with its view that no arbitrary limitation could be imposed upon authorization periods, ACF approved that language. It is both unfair and unlawful for OIG to retroactively impose an arbitrary 12 month limit in its audit criteria.

### **Unrelated Claims Within 12 Months**

OIG cited Pennsylvania for over \$9 million in errors arising out of unrelated EA claims within a single 12 month authorization period. In support of its findings, OIG cites an "additional clarification" provided by anonymous ACF sources.

ACF policy permitted the authorization of additional services within the service authorization period if the additional services resulted from a continuation of the initial emergency. In a policy clarification dated August 24, 1994, the Director of the Office of Family Assistance specifically advised that New Jersey's provision of juvenile detention care or foster care following failed preventive family preservation services did not violate the single authorization requirement of Federal law. The Director noted that "the precedent for this type of authorization is the current practice of many States in authorizing EA for very general family preservation and reunification services." Pennsylvania adopted the continuum of services concept in the Children, Youth and Families Bulletin cited in your report.

OIG misapplied Federal policy by ignoring the continuum of services concept. OIG appears to have erroneously treated each new service, each break in service, and each new arrest as ending the prior authorization period. Accordingly, we reject the audit finding on this issue.

### **EA Supplemented Another Federal Program**

The draft audit cited Pennsylvania for an error whenever a child receiving EA also received Title IV-E assistance. The audit finding is wrong. ACF policy has long permitted the dual receipt of benefits under EA and other programs so long as there is no duplication of coverage. In a memorandum dated February 14, 1992 addressing this issue, the Director of the Office of Family Assistance advised that EA was not intended to duplicate assistance to meet the "identical needs" addressed by other public assistance programs.



Mr. David M. Long

7

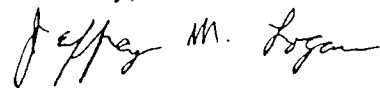
EA did not duplicate the "identical needs" of Title IV-E recipients. Accordingly, Pennsylvania was permitted to utilize EA to supplement benefits for Title IV-E eligible children.

Remaining Errors

We are unable to comment on the remaining errors because they relate to individual sample cases.

We thank you for the opportunity to comment on your draft audit. We hope you will take these comments into consideration and revise your audit recommendation appropriately. Best wishes.

Sincerely,

A handwritten signature in cursive script that reads "Jeffrey M. Logan".

Jeffrey M. Logan

Enclosure