

**Memorandum**

Date • FEB 22 2000

From June Gibbs Brown
Inspector General *June Gibbs Brown*

Subject Review of Two Selected Eligibility Requirements for New York State Title IV-E Foster Care Claims for New York City (A-02-97-02002)

To Olivia A. Golden
Assistant Secretary
for Children and Families

This is to alert you to the issuance of our final report on February 24, 2000. A copy is attached. The objectives of our review were to evaluate whether New York State (NYS) and New York City (NYC), through its independent agency the Administration for Children's Services (ACS), had implemented adequate controls to comply with Title IV-E "physical removal" requirement for foster care children placed in homes of relatives and to determine whether NYC kinship children were living in homes that have been approved as meeting NYS standards for licensing. The audit was conducted at the request of the Region II Administration of Children and Families on NYS's Title IV-E claims made on behalf of NYC kinship children specifically for the period October 1, 1994 through September 30, 1996.

Our review showed that of 200 sample kinship children reviewed, physical removal requirements were not met for 9 children and for 108 children, ACS failed to establish that the children were living in approved homes. The claims for 9 children were ineligible for Title IV-E funding because:

- Five children were not physically removed from their prior home within 6 months of the court proceedings.
- For three children, ACS could not provide documentation supporting removal.
- One child was removed from the home of a nonrelative.

Our review of NYS's standards for licensing showed that claims for 108 children were fully or partially ineligible for Title IV-E funding because:

- For 80 children, ACS was unable to provide documentation that required home approvals had been performed and therefore, there was no assurance that the children were residing in approved homes.

- For 38 children, the homes were approved late. The late approval of homes is unacceptable because it means that a child was placed or residing in a home for a period of time when the home was not approved.

It should be noted that 10 children had more than one home approval performed during our audit period and were included in both the undocumented or late approval categories.

The ACF requested our assistance in addressing a major problem with NYS and NYC's interpretation of the physical removal eligibility requirement. The ACF was able to resolve this problem through a negotiated settlement agreement dated September 28, 1995 with NYS and NYC which covered the period October 1, 1986 through June 30, 1994. The agreement provided for a \$67.2 million (Federal share) disallowance. However, ACF requested that we determine whether NYS and NYC were adhering to the physical removal requirements for claims submitted subsequent to June 30, 1994.

Regarding home approvals, ACF felt that although State policy required that all kinship foster care homes be approved as a precursor to claiming, NYC practice has not always given the level of attention necessary to kinship home approvals. Due to their concern, ACF requested that our review include an analysis of NYC's compliance with home licensing.

Our home approval findings are significant because placing or keeping children in homes that are not approved could subject the children to unnecessary risks. Our findings parallel those of auditors from NYS that found similar home approval problems in a prior audit of NYC.

We recommend that NYS work closely with NYC in developing and implementing a comprehensive correction plan which ensures that ACS complies with the physical removal eligibility requirement and more importantly, that ACS takes immediate and effective corrective action to ensure that children are only placed in approved homes. Also, we recommend that NYS monitor and test on a periodic basis that actions taken by ACS and NYC are sufficiently adequate to ensure compliance with the physical removal and home approval eligibility requirements of the Title IV-E Foster Care program.

Based on our statistical sample, we have projected overpayments that has a lower limit of \$81,482,902 (Federal share \$40,741,451) (see Appendix A for details on our statistical sample methodology). This projection represents the Federal share of kinship foster care claims in NYC that did not meet the physical removal and/or home approval eligibility requirements of the Title IV-E Foster Care program. We are referring our projected overpayments to ACF for their review and the determination of an appropriate resolution.

We received separate comments from NYS and ACS dated July 29, 1999 (See Appendix B). However, neither NYS nor ACS provided specific challenges to the

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accuracy of our findings. We have adjusted the overpayment amount based on additional documentation provided to us by ACS. Both NYS and ACS expressed interest in improving program controls.

We have scheduled a review to test ACS's current home approval system "Connections" to determine if the system can be relied upon to adequately report data necessary to track and verify that home approvals were completed. This review started in February 2000.

Any questions or comments on any aspect of this memorandum are welcome. Please address them to John A. Ferris, Assistant Inspector General for Administrations of Children, Family, and Aging Audits, at (202) 619-1175.

Attachment

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**REVIEW OF TWO SELECTED
ELIGIBILITY REQUIREMENTS FOR
NEW YORK STATE TITLE IV-E FOSTER
CARE CLAIMS FOR NEW YORK CITY**



**JUNE GIBBS BROWN
Inspector General**

**FEBRUARY 2000
A-02-97-02002**



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office Of Inspector General
Office Of Audit Services

Region II
Jacob K. Javits Federal Building
26 Federal Plaza
New York, NY 11278

Our Reference: Common Identification No. A-02-97-02002

Mr. John A. Johnson
Commissioner, Office of Children and Family Services
Department of Family Assistance
52 Washington Street
Rensselaer, New York 12144

Dear Mr. Johnson:

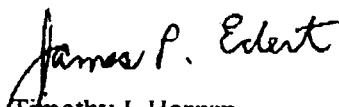
Enclosed are two copies of the U.S. Department of Health and Human Services, Office of Inspector General, Office of Audit Services' final report entitled "Review of Two Selected Eligibility Requirements for New York State Title IV-E Foster Care Claims for New York City."

Final determination as to actions taken on all matters reported will be made by the HHS action official named below. We request that you respond to the HHS action official within 30 days from the date of this letter. Your response should present any comments or additional information that you believe may have a bearing on the final determination.

In accordance with the principles of the Freedom of Information Act (Public Law 90-23), OIG reports issued to the Department's grantees and contractors are made available, if requested, to members of the press and general public to the extent information contained therein is not subject to exemptions in the Act which the Department chooses to exercise. (See 45 CFR Part 5.)

To facilitate identification, please refer to Common Identification Number A-02-97-02002 in all correspondence relating to this report.

Sincerely yours,

for 
Timothy J. Horgan
Regional Inspector General
for Audit Services

Enclosures - 2

Page 2 - Mr. John A. Johnson

Direct reply to HHS Action Official:

Ms. Mary Ann Higgins
Northeast Hub Director
Administration for Children & Families
26 Federal Plaza, Room 4114
New York, New York 10278

EXECUTIVE SUMMARY

Background

The New York State Department of Family Assistance (NYSDFA) (formerly the New York State Department of Social Services) and its local social services district in New York City are responsible for placing children in need of protection into foster care. In 1986, NYSDFA decided to make a more concerted effort to place children who were in need of foster care with relatives. This practice was referred to as "kinship placements". To the extent such relatives met foster care parent requirements, they were considered preferred foster parents.

Under title IV-E of the Social Security Act, Federal matching of State foster care maintenance payments is available for children in kinship foster care. In order to claim reimbursement from the Title IV-E program, the child must meet eligibility requirements. One of the eligibility requirements was that the child be physically removed from the home of a specified relative such as a parent within 6 months prior to the initiation of court proceedings that determined that continuation therein would be contrary to the welfare of the child. Another Title IV-E eligibility requirement was that the child be placed in a kinship home that met State requirements for approval of relative foster boarding homes.

The Department of Health and Human Services, Administration for Children and Families requested our audit assistance for a case review of New York State's (NYS) Title IV-E claims made on behalf of New York City (NYC) kinship children specifically for the period October 1, 1994 through September 30, 1996.

Objectives

The objectives of this review were to evaluate whether NYS and NYC, through its independent agency the Administration for Children's Services (ACS), had implemented adequate controls to comply with Title IV-E "physical removal" requirement for foster care children placed in homes of relatives and to determine whether NYC kinship children were living in homes that have been approved as meeting NYS standards for licensing.

Summary of Findings

Our review showed that of 200 sample kinship children reviewed, physical removal requirements were not met for 9 children and for 108 children, ACS failed to establish that the children were living in approved homes. As a result, we projected overpayments with a lower limit of \$81,482,902 (Federal share \$40,741,451) (see Appendix A for details on our statistical sample methodology). This projection represents improper or unallowable claims made to the Title IV-E program.

Based on our review of supporting case file documentation for 200 sample kinship children, we determined that claims for 9 children were ineligible for Federal reimbursement under the Title IV-E Foster Care program because:

- ▶ Five children were not physically removed from the prior home within 6 months of the court proceedings.
- ▶ For three children, ACS could not provide documentation supporting removal.
- ▶ One child was removed from the home of a nonrelative.

Regarding the three children that ACS did not provide case file documentation for, we consider the Title IV-E expenditures that were claimed for these children as overpayments. We provided periodic summaries of our review results to NYC officials and continually requested supporting documentation. At the inception of our audit, we advised NYS and NYC officials that missing documentation would be treated as overpayments.

With respect to our audit of home approvals, we determined that kinship foster care claims were improperly submitted for 108 children because ACS failed to establish that the children were living in approved homes.

- ▶ For 80 children, ACS could not provide documentation to show for periods of time within our audit period, the homes met home approval requirements.
- ▶ For 38 children, the homes were not approved timely.

It should be noted that 10 children had more than one approval performed during our audit period and were included in both home approval categories.

Our home approval findings are significant because placing or keeping children in homes that are not approved could subject the children to unnecessary risks. Our findings parallel those of auditors from NYS that found similar home approval problems in a prior period audit of NYC. In their report, State auditors raised concerns about the risk to children placed in unapproved homes. In addition, State auditors warned NYC that noncompliance with the home approval requirement would render the claims ineligible for either Federal or State reimbursement. We have learned that NYC went to court on the State audit and was successful in having a court declare the audit null and void on various grounds, but primarily because the court concluded that the audit was fiscally motivated. Although the court action negated a fiscal recovery on the State audit, we believe the audit placed NYC on notice about weaknesses in their home approval systems and the necessity and the importance of maintaining adequate documentation.

The total amount improperly claimed to the Title IV-E program for 111 errors was \$505,523 (Federal share \$252,762). These errors included the 9 children in our sample for whom physical removal requirements were not met and the 108 sampled children that were placed in homes

where ACS could not provide documentation to show that the kinship home was approved or the home was approved late. We found for 6 sample children, both physical removal and home approval deficiencies were identified. We counted the overlapping deficiencies as physical removal errors to eliminate duplication.

We are referring our projected overpayments to ACF for their review and the determination of an appropriate resolution.

Recommendations

We recommend that NYS work closely with NYC in developing and implementing a comprehensive corrective action plan which ensures that ACS complies with the physical removal eligibility requirement and, more importantly, that ACS takes immediate and effective corrective action to ensure that children are only placed in approved homes. Also, we recommend that NYS monitor and test on a periodic basis that actions taken by ACS and NYC are sufficiently adequate to ensure compliance with the physical removal and home approval eligibility requirements of the Title IV-E Foster Care program.

Auditee Comments

The full text of NYS and ACS comments on our draft report are contained in Appendix B. In summary, with respect to the projected overpayments, NYS comments pertained to various information that NYS believed should be considered in finalizing the report. With respect to the recommendations, both NYS and ACS expressed interest in improving controls and cited progress that they felt had been made in both areas. Specifically, NYS concurred with our recommendations to work closely with NYC in developing and implementing a comprehensive corrective action plan and to monitor and test on a periodic basis that actions taken by ACS and NYC were sufficiently adequate to ensure compliance with the physical removal and home approval eligibility requirements of the Title IV-E Foster Care program. In addition, ACS recommended that Federal, State and city officials jointly develop corrective action and reinvestment plans that target areas needing improvement to increase overall compliance.

OIG Comments

We are pleased that NYS and ACS officials have expressed an interest in improving program controls. With respect to the projected overpayments, we must note that the response did not contain detailed challenges to the factual accuracy of our findings. Rather, the response indicated that additional information was being accumulated. In this regard, we evaluated all additional information that was provided to us by August 31, 1999 and made appropriate adjustments to our final report.

ACRONYM LIST

ACF	Administration for Children and Families
HHS	Department of Health and Human Services
HRA	Health Resources Administration
NYSDFA	New York State Department of Family Assistance
NYS	New York State
NYC	New York City
IHHS	Institute of Health and Human Services
DAFCS	Division of Adoption and Foster Care Services
ACS	Administration for Children's Services
AFDC	Aid to Families with Dependent Children
ACT	Social Security Act
DAB	Departmental Appeals Board

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I N T R O D U C T I O N

Background

The Administration for Children and Families (ACF) is the Operating Division within the Department of Health and Human Services (HHS) that administers the Title IV-E Foster Care program. One major component of the Foster Care program involves the placement of children with relatives which is known as kinship foster care. Under title IV-E of the Social Security Act (Act), Federal matching of State foster care maintenance payments is available for children in foster care who would otherwise be available for Aid to Families with Dependent Children (AFDC). In order to claim reimbursement from the Title IV-E program, the child must meet eligibility requirements. During the audit period October 1, 1994 to September 30, 1995, the New York State Department of Family Assistance (NYSDFA) claimed \$308 million (\$154 million Federal share) of kinship expenditures to the Title IV-E Foster Care program.

At the State level, NYSDFA (formally the New York State Department of Social Services) submits claims to ACF and is responsible for establishing State policy, issuing guidance and monitoring the activities of local governments in administering the Title IV-E program. The State has primary responsibility and oversight for this program but delegates day-to-day responsibilities to the local governments. For the majority of our audit period (October 1, 1994 through January 1996), the Health Resources Administration (HRA) was the New York City (NYC) agency responsible for foster care children services. In January 1996, the Mayor of NYC signed an executive order that removed the Child Welfare Administration from HRA, renamed it the Administration for Children's Services (ACS) and made it an independent NYC agency. The ACS was created to strengthen and improve services for NYC's children. In conducting our review, we worked with both New York State (NYS) and ACS officials. All supporting case file materials were located in NYC.

The Title IV-E program grew out of congressional concern that the public child welfare system responsible for serving dependent and neglected children had become a holding system for children living away from their parents. Congress intended to lessen the emphasis on foster care placement and to encourage greater efforts to find permanent homes for children either by making it possible for them to return to their own families or by placing them in adoptive homes.

In 1995 and 1996, approximately 19,000 of the 40,000 children in foster care were living with relatives in kinship foster care homes. The significant number of children placed with relatives is attributable to a State Supreme Court case brought in 1986 (Eugene F. v. Gross) that resulted in the State incorporating relatives in the traditional foster care system.

In a prior period, ACF identified a major problem with NYS and NYC's interpretation of the physical removal eligibility requirement which was affirmed in a formal administrative decision. In accordance with that decision, the parties entered into a negotiated settlement agreement dated September 28, 1995. The agreement provided for a \$67.2 million (Federal share) disallowance covering the period October 1, 1986 through June 30, 1994, and agreement that in periods after

June 30, 1994, NYS and NYC would agree that section 472 (a) (1) of the Act requires the child be physically removed from the home of a specified relative, such as a parent, as a result of a judicial determination. The parties also agreed that, judicial determination removing the child must be initiated no longer than 6 months after the child was removed from the home of a specified relative. The ACF requested that we determine whether NYS and NYC were adhering to the physical removal requirements for claims submitted subsequent to June 30, 1994.

In addition to testing physical removal, ACF also requested that we determine whether kinship children were placed in homes that had been approved in accordance with Federal, State and local requirements. In prior periods, the State had found significant problems in NYC's home approval process. Home approval is critical to ensuring that foster care children are only placed in homes that are safe and meet basic health and safety requirements.

In order to verify the accuracy of ACS approval information in its computer system, we requested documentation which would support and establish the propriety and accuracy of the "Connections" computer information. Our request was officially made in a letter dated December 15, 1998. However, the ACS officials did not respond to this request. Without the assistance of ACS officials, we were unable to complete this part of our review. We plan on starting a separate review of "Connections" later this month.

Objectives, Scope and Methodology

The objectives of this review were to evaluate whether NYS and NYC, through ACS, had implemented adequate controls to comply with Title IV-E "physical removal" requirement for foster care children placed in homes of relatives and to determine whether kinship children are in homes that have been approved as meeting NYS standards for licensing.

To accomplish our objectives, we:

- ✓ Met with ACF and NYS officials to discuss the objectives.
- ✓ Met with representatives of NYS and ACS to obtain an understanding of the following:
 - a. Controls established by NYS and ACS to meet the physical removal requirement agreed to in the settlement agreement.
 - b. The State's requirements for approval of relative foster boarding homes.
 - c. The responsibility of ACS regarding the review and approval of relative foster boarding homes.
 - d. The responsibility of the voluntary agencies regarding the review and approval of relative foster boarding homes.

- √ Obtained separate universes of kinship children that were either categorized as Title IV-E eligible or on whose behalf a claim was made by NYS under the Title IV-E Foster Care program for at least 1 day for Fiscal Year (FY) 1995 (20,409 children) and FY 1996 (17,154 children). These parameters were agreed to by NYS.
- √ Reached agreement with NYS and ACS on the completeness and accuracy of each universe. The universes provided by NYS did include some kinship children with no corresponding Title IV-E payment. The total number was not readily identifiable.
- √ Selected a statistical sample of 200 kinship children (100 children for FY 1995 and 1996). Children were randomly selected using a stratified design. We are reporting the overpayment projected from this sample at the lower bound of the 90 percent confidence interval. Appendix A contains the details of our sampling methodology. For each of the 200 kinship children selected, we:
 - a. Reviewed eligibility and home approval documents in ACS and voluntary agencies case files to determine if kinship children claimed under Title IV-E foster care met the physical removal eligibility criteria and were placed in homes that have been approved as meeting NYS standards for licensing.
 - b. For physical removal and home approval deficiencies noted, we periodically briefed NYS and ACS officials on the deficiencies and we provided them with information as to what documentation was needed. We reviewed any additional documentation provided to support the claim through August 31, 1999.
 - c. Met with regional ACF officials to discuss the deficiencies.
 - d. For each of eight sampled children with no corresponding Title IV-E payments in our audit period, we considered the sample item as a zero error.

Our review was performed in accordance with generally accepted standards for governmental auditing. However, we did not review the overall internal controls over the submission of Title IV-E claims. Our review was limited to obtaining an understanding of the settlement agreement, controls implemented by NYS and NYC as a result of the settlement agreement, and ACS's procedures for determining eligibility and performing home approvals. We also obtained an understanding of NYS and NYC procedures for claims processing. However, we did not rely on internal controls because the objectives of our review were accomplished through substantive audit testing.

Our field work was performed at NYC HRA and various ACS field offices located in NYC during the period September 1997 through August 1999.

FINDINGS AND RECOMMENDATIONS

Our review showed that of 200 sample kinship children reviewed, physical removal requirements were not met for 9 children and for 108 children, ACS failed to establish that the children were living in approved homes. As a result, we projected overpayments with a lower limit of \$81,482,902 (Federal share \$40,741,451) (see Appendix A for details on our statistical sample projection). This projection represents improper or unallowable claims made to the Title IV-E program.

We determined that claims for 9 kinship children were ineligible for Federal reimbursement under the Title IV-E Foster Care program because ACS failed to comply with the physical removal eligibility requirement for these cases. In addition, for 108 kinship children, ACS failed to establish that these children were residing in approved homes. In the case of 80 of the 108 kinship children, ACS could not provide any documentation to show that the kinship homes had been approved for periods of time within our audit period. For 38 children, the documentation provided clearly showed that homes were not approved timely. It should be noted that 10 children had more than one home approval performed during our audit period and were included in both the undocumented or late approval categories. Because ACS failed to establish that the kinship homes were approved, the related foster care kinship claims submitted by NYS on behalf of these 108 kinship children were partially or fully ineligible for Federal reimbursement under the Title IV-E program.

The following section of the report discusses our review of ACS's compliance with the physical removal and home approval eligibility requirements of the Title IV-E Foster Care program.

Physical Removal

Our review of case files supporting 200 sample kinship children for FYs 1995 and 1996 disclosed that physical removal eligibility criteria requirements were not met for 6 children and for another 3 children, NYC could not provide the documentation needed to show that physical removal had taken place. As a result, claims for all 9 kinship children were ineligible for Federal reimbursement under the Title IV-E Foster Care program.

In addition to meeting other Title IV-E eligibility requirements, section 472 (a) of the Social Security Act requires that:

Each State with a plan approved under this part shall make foster care maintenance payments as defined in section 475 (4) under this part with respect to a child who would meet the requirements of section 406 (a) or of section 407 [eligibility requirements for AFDC or AFDC-U] but for his removal (emphasis provided) from the home of a relative specified in section 406 (a), if:

(1) the removal from the home was the result of a judicial determination to the effect that continuation therein would be contrary to the welfare of such child

For the period October 1, 1986 through June 30, 1994, ACF determined that kinship children claimed to Title IV-E foster care were living with a relative for more than 6 months prior to the initiation of the court proceedings that determined that the child should be removed from a prior home. The court proceedings were initiated because the child's continuance in that prior home would be contrary to the child's welfare. The ACF concluded that the children were ineligible for Title IV-E funding and disallowed \$120 million which was the Federal share. This conclusion was based on ACF's interpretation of section 472 (a) (1) as requiring the child's physical removal from the prior home. The ACF considered a child who was physically removed from the home of a specified relative such as a parent within 6 months prior to the initiation of court proceedings as removal from the home within the meaning of section 472 (a) (1).

The NYS disputed ACF's interpretation. The NYS contended that the child was removed within the meaning of this section at the time the judicial determination was made transferring custody from the child's parents to the State IV-E agency, although the child was physically removed from the home of the parent more than 6 months prior to the initiation of the court proceedings.

This issue was addressed by the Departmental Appeals Board (DAB). In its decision No. 1485 dated July 21, 1994, the DAB concluded " that ACF's interpretation of section 472 was a reasonable interpretation (and perhaps the only reasonable interpretation) of the language of the statute as a whole. When the provisions of section 472 (a) are read together, they clearly contemplate that the child will be physically removed from the . . . home in or after the month in which court proceedings are initiated or within the preceding six months". In addition, the DAB concluded that ACF's interpretation was supported by the legislative history of the Title IV-E program.

The ACF, NYS, and NYC as a corporate entity and through HRA as a social service district settled this issue on September 28, 1995. As part of the settlement, the disallowance was reduced from \$120 million to \$67.2 million (Federal share). In addition, according to section (g) of the settlement agreement, HRA agreed to begin applying ACF's Title IV-E policy regarding the removal requirement in 42 U.S.C. 672 (a) (1) when making regular eligibility redeterminations for children who entered kinship foster care prior to January 1, 1994. Any Title IV-E claiming adjustment necessitated by a revised eligibility determination based solely upon application of the removal policy will be made retroactively to July 1, 1994. This agreement resolved the issue of physical removal for the period October 1, 1986 through June 30, 1994.

This settlement agreement required that HRA apply ACF's policy of physical removal to children that were placed in kinship homes prior to January 1, 1994 and continued in foster care subsequent to the settlement agreement. The application of this policy would be done at the time of redetermination of Title IV-E eligibility (every 6 months). For those children that did not meet removal requirements, HRA would adjust Title IV-E claims retroactively to July 1, 1994.

All kinship children placed subsequent to January 1, 1994 would also be subject to the removal policy.

As part of our audit, we met with NYS and ACS officials to determine what actions had been taken with respect to section (g) of the settlement agreement which as noted above dealt with applying the physical removal requirements for periods after July 1, 1994. In response to our inquiries, we were advised that two policy directives had been issued and a contractor had been retained to test whether claims met the physical removal requirements. In summary, we learned that:

1. Administrative Directive 93 ADM-34 dated October 28, 1993 was issued by NYSDFA to the Commissioners of Social Services. The directive stated that the child must have lived in the home of a specified relative at some time within the 6 months prior to the initiation of court proceedings or when a voluntary placement agreement was signed. There must be documentation in the case needed to document "specified relative", i.e., such as case narrative, income maintenance records, probation records, etc. Also, when the child is placed with a kinship foster parent, that relative cannot also be considered to be the specified relative as described in this paragraph. If the child did live with the kinship relative for more than 6 months prior to court proceedings, then the child did not meet removal requirements.
2. On December 20, 1993, NYC issued a revised Procedure No. 63 on the Categorical Eligibility in Child Welfare Services. This revised procedure incorporates the above NYSDFA directive on living with a specified relative within 6 months. An example was provided of an ineligible placement in which the "specified relative" and the "kinship relative" were one and the same person. The example read: "In the prior six months, the child lived solely with his grandmother. The grandmother is now the approved kinship relative foster parent". The reason the child failed the "living with a specified relative" requirement is because the specified relative (the grandmother) and the kinship relative were one and the same person and physical removal of the child from a prior home did not take place.
3. In addition to the above two policies, NYS entered into a contingency contract with the Institute of Health and Human Services (IHHS) to review kinship foster care cases that were included in the settlement agreement (1986 through 1994). The purpose of this contract was to identify cases that failed the physical removal criteria and adjust the claims related to the cases that were made to the Title IV-E program for the period 1986 through 1996. The IHHS reviewed all children that were placed directly into a kinship setting.

The above policy directives and the hiring of a consultant provided us with some assurance that actions had been taken with respect to implementing the physical removal requirements. However, in order to independently assess whether the State and NYC were complying with the Title IV-E physical removal eligibility requirements specified in the settlement agreement, we

selected 200 kinship children who were either categorized as Title IV-E eligible or on whose behalf a claim was made by NYS under the Title IV-E Foster Care program for at least 1 day during the period October 1, 1994 through September 30, 1996. An analysis of our sample revealed that 179 children were placed in kinship homes prior to our audit period but kinship foster care claims continued to be made during our audit period. The remaining 21 children represented new placements that occurred within our audit period and for which claims for kinship foster care were made.

We requested case file documentation for all 200 cases which would document compliance with the physical removal requirements. The ACS officials were able to provide case file documentation for 197 of the 200 sample kinship children.

With respect to 179 children that were placed prior to our audit period, we found claims for 9 children that were ineligible for Title IV-E funding because:

- √ Five children were not physically removed from the prior home within 6 months of the court proceedings.
- √ For three children, ACS could not provide documentation supporting removal.
- √ One child was removed from the home of a nonrelative.

The following two sample children are examples of cases which failed physical removal

For sampled child (95-7212), we found that a neglect petition was filed on October 6, 1989. The child became the ward of the Commissioner of Social Services and was legally placed with the child's maternal grandmother. This placement was categorized as kinship foster care and \$15,293 was claimed to the Title IV-E Foster Care program during our audit period. However, the case file showed that the child had lived with the maternal grandmother since birth (11 years). This case failed removal because the child was not physically removed within the preceding 6 months of the court proceedings. We questioned the entire \$15,293 (Federal share \$7,647) claimed for the period October 1, 1994 through September 30, 1995.

For sample child (95-16228), a neglect petition was filed on June 4, 1991 and the child was legally placed with the maternal grandmother. The NYC categorized this placement as kinship foster care and \$6,006 was claimed to the Title IV-E Foster Care program during our audit period. The case file showed that this child lived with the maternal grandmother for over 6 months prior to placement. Consequently, this child was not physically removed during the prior 6 months of the court proceedings and was not Title IV-E eligible. We questioned the entire \$6,006 (Federal share \$3,003) for the period October 1, 1995 through September 30, 1996.

With respect to the 21 children that were placed in kinship homes during our audit period, we found no errors where claims had been made to the Title IV-E program. This is a positive finding and provides evidence that improvements have been made in the physical removal area for new placements.

As part of our audit, we reviewed the work of the contractor (IHHS) that had been hired by NYC to test compliance with the physical removal eligibility requirements for children that had been placed directly into kinship foster care homes prior to June 30, 1994. We found that the contractor had tested 131 of our sampled children. These children were placed in foster care prior to our audit and continued in foster care during our audit period. For the 131 children, the contractor had identified 13 physical removal errors. We compared the contractor's errors to our determinations and found that for 8 of our sample children, we both concluded that the child did not meet removal requirements. These 8 sampled children were included as part of the physical removal errors that were reported in our draft report. For the final report, we requested evidence as to whether NYS had processed correcting claim adjustments for the 8 children. Evidence was provided to us showing that adjustments had been processed for 6 of the children. Accordingly, we assigned a zero value to the 6 children's cases.

For the remaining five errors identified by IHHS, we found sufficient documentation to establish that the State and city had complied with the physical removal requirement and therefore, we did not take exception to these 5 children. Nevertheless, we were provided evidence by NYS that claims for 2 of the 5 children were adjusted for our audit period. We found that even though these 2 children met physical removal criteria, both had deficient home approvals. Since the claims were adjusted by NYS, we assigned a zero value and did not count these 2 children as home approval errors in our sample and projections.

In summary, after adjusting our physical removal errors for NYS credits and the submissions of acceptable physical removal documentation, we found the claims for 9 sampled children were ineligible for Federal reimbursement. Our audit disclosed that \$71,374 (Federal share \$35,687) in total kinship foster care payments made on behalf of these 9 sampled kinship children were ineligible for Federal reimbursement under the Title IV-E program.

Home Approvals

Our review of the case files supporting 200 sampled children disclosed that kinship foster care claims were improperly submitted for 108 children because ACS failed to establish that the children were living in approved homes. For 80 sampled children, ACS could not provide documentation to show that for periods of time within our audit period, the homes met all required approvals. For 38 of our sampled children, foster care claims were also improperly submitted for periods of time when the homes were not approved. In these 38 cases, the homes were ultimately approved but the approvals were not performed timely. It should be noted that

10 children had more than one home approval performed during our audit period and were included in both the undocumented and late approval categories.

Our findings are significant because placing or keeping children in homes that are not approved could subject the children to unnecessary risks. Because these 108 sampled children were not living in properly approved homes, the corresponding claims for kinship foster care were either partially or fully ineligible for Federal reimbursement.

Section 472 (b) of the Social Security Act (Act) states that:

Foster care maintenance payments may be made under this part only on behalf of a child . . . who is: (1) in the foster family home of an individual, whether the payments therefore are made to such individual or to a public or nonprofit child-placement or child-care agency

Further, Section 472 (c) of the Act explicitly states that:

For the purposes of this part, (1) the term "foster family home" means a foster family home for children which is licensed by the State in which it is situated or has been approved by the agency of such State having responsibility for licensing homes of this type, as meeting the standards established for such licensing;

In NYS, the NYSDFA was responsible for establishing licensing, certification and approval standards for foster family homes and institutional facilities. The State agency issued Administrative Directive 86 ADM-33 (ADM) dated October 6, 1986, which addressed the requirements for approval of relative foster boarding homes and policy on use of relatives as foster care providers or as alternatives to placement. The process for approving relatives as foster care providers closely parallels the foster home certification process but, because of the special relationship of these children with their relative parents, the regulations were modified to include a number of less prescriptive requirements to expedite the approval process. Provisions of the approval requirements include:

- √ A home study entailing a physical inspection of the home and an assessment of family circumstances;
- √ A character evaluation of the adult household members including an inquiry of the State's Central Registry of child abuse/maltreatment information;
- √ Foster parent application and orientation processes, including the completion of the foster parent agreement; and
- √ A report of the foster parent's medical well-being.

With respect to the physical inspection of the home, agency procedures as required in 18 NYCRR 448.8 include:

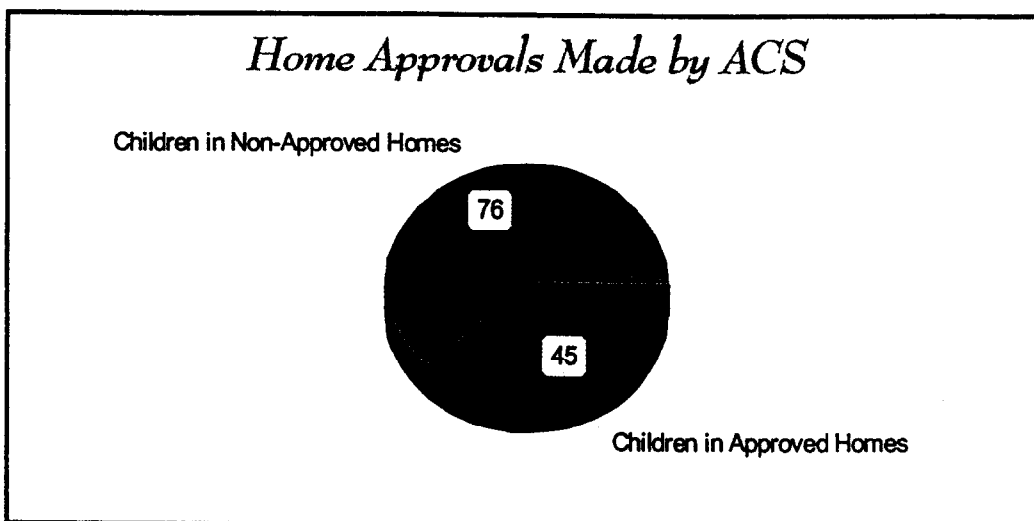
- Review of the prospective relative foster family boarding home for health and safety conditions.
- The home must be in good condition and present no hazard to the health or safety of children.
- The home must be in substantial compliance with all applicable provisions of State and local laws, ordinances, rules and regulations concerning health and safety.
- The home must be kept in sufficiently clean and sanitary condition and the agency must be satisfied that: there are sufficient sleeping arrangements and space; there is an adequate water supply; the home is free of fire hazards; the home is equipped with at least one smoke detector; and there are adequate bathing, toilet, and lavatory facilities.

Relative foster homes can be approved on an emergency basis. The home study and application process must be completed before the placement of the foster child in the home. The character evaluation must be initiated before placement. These steps are to be carried out pursuant to an emergency approval of the home also known as a 24-hour approval. The character evaluation, medical report and any remaining requirements are to be completed within 60 days of placement as part of the full approval of the home which is referred to as a 60-day approval. In addition, all requirements must be reviewed and re-approved annually (annual reapproval).

In NYC, the ACS (formally the Child Welfare Administration) was responsible for establishing and implementing procedures for performing home approvals. According to its "Instructions for the Emergency Placement of Article 10 Remanded Children with Relatives", dated June 9, 1988, the Division of Adoption and Foster Care Services (DAFCS) was responsible to complete the 24 hour home study that was initiated by the child protective services (CPS) caseworker. The 24 hour home study was required to initially approve or disapprove a relative to provide foster care. If the home was approved, it was approved for foster care for 60 days of placement of the child. The DAFCS also completed the follow-up full home study to formally approve the home. This home study had to be completed within 60 days of the child's placement in the home. If the home was approved, it was approved for 1 year from the child's placement and must be reevaluated annually.

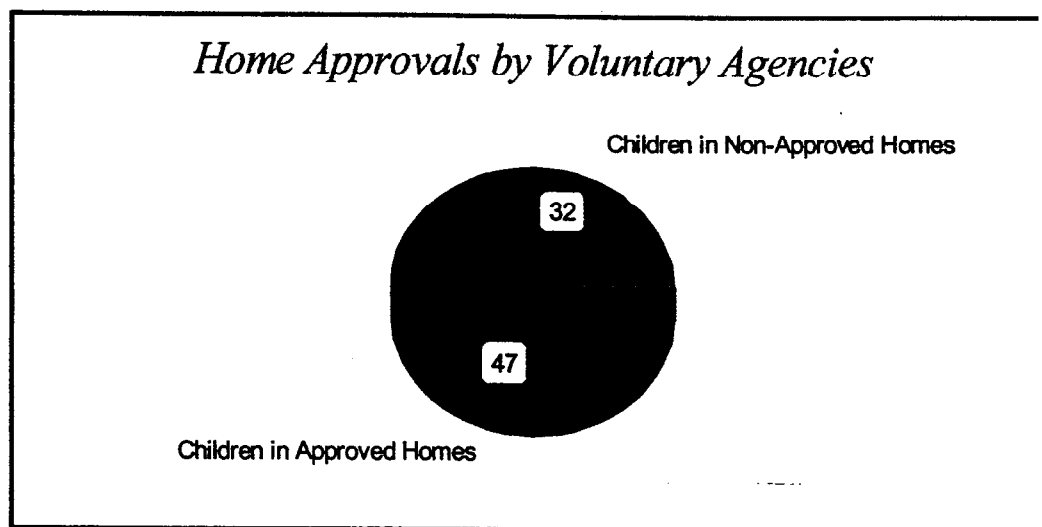
Our review showed that ACS was responsible for performing 24 hour approvals, full home approvals, and home re-approvals for 121 of our 200 sample children. The home re-approvals for the remaining 79 sample children had been delegated by ACS to voluntary agencies under NYC contracts. The ACS retained oversight responsibilities of the activities of the voluntary agencies.

The following chart documents the results of our review of ACS's direct responsibility for approvals:



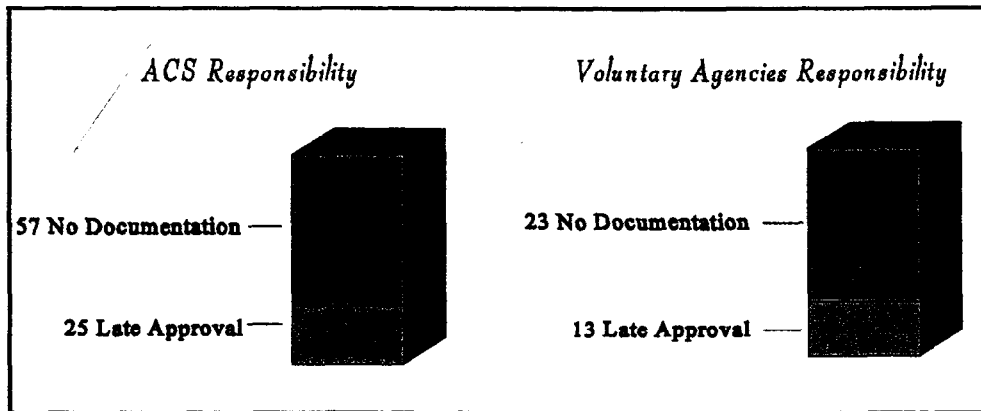
Based on our review, we found adequate home approval documentation for only 45 of the children. For 76 of the 121 children, we found deficiencies in the documentation.

We found a similar situation where ACS had contracted responsibility for home approvals to the voluntary agencies for 79 children.



As the chart shows, we found adequate home approval documentation for 47 children. However, for 32 children, we found deficiencies in the home approval documentation.

As illustrated above, we identified home approval deficiencies involving 108 sample children. As 10 children had more than one approval deficiency during our audit period, we actually found a total of 118 deficiencies with home approvals. The 118 home approval deficiencies fell into two basic groupings and were applicable to both ACS and voluntary agencies approval determinations.



As the above charts illustrate, for a total of 80 required approvals, ACS was unable to furnish documentation that required home approvals had been performed and therefore, there was no assurance that 80 children were residing in approved homes. The above charts also show that for 38 children, the homes were approved late. The late approval of homes is unacceptable because it means that a child was placed or residing in a home for a period of time when the home was not approved.

Within our sample, we had audit coverage of each type of required approval. Regardless of the type or whether ACS or voluntary agencies were performing the approvals, we found the same pattern of reoccurring deficiencies as the following tabulations indicates:

Deficiencies in the Three Types of Approvals			
Type of Approval	Number Not Documented	Late	Combined
60-Day	2	2	4
Total	80	38	118

With respect to approvals that were not documented, we provided ACS with every opportunity to furnish the documentation to us. We met with them regularly and advised them of what was needed and continually requested the documentation. We also evaluated documentation that was provided by ACS subsequent to our draft report through August 31, 1999, and revised our findings where warranted. For the children we are considering errors, ACF failed to provide

evidence that the home had been approved. In certain cases, we received confirmation that documentation could not be located. For example, we requested home approvals for four sample children from an ACS field office. The acting borough director responded that reapprovals for the four children could not be found, who acknowledged that "the cases did not fully pass this audit".

The existence of 38 late approval of homes is not an acceptable practice. We found the following pattern of lateness in the error cases we identified:

Type of Approval	Late Approvals	Number of Days Late
60-Day	2	88 days, 214 days
Total	38	

As noted above, the late approval of home was applicable to all three categories of home approvals. For example, for sample child (96-3370), the child was placed in a kinship foster home on March 27, 1996 but the home did not receive a 24-hour approval until May 6, 1996. This delay of 40 days is unacceptable as the child was potentially at risk. On this very case, the 60-day full home approval was also seriously late. The full home approval for this child should have been completed by July 5, 1996. However, it was not completed until February 4, 1997 or 214 days late. Reapprovals were also subject to unacceptable delays as well. For example, sample child (95-8644), the reapproval was due on or before September 8, 1994 which would then cover the 1 year renewal period of September 8, 1994 through September 7, 1995. However, the reapproval was not completed until December 15, 1995 or 463 days late.

Our findings are particularly troublesome because a State audit of an earlier period found similar problems. In a prior audit of the home approval issue, NYSDFA issued a final report entitled, "Kinship Comprehensive Foster Care Audit" dated March 30, 1990. One of the objectives was to assess how well HRA carried out its responsibilities for approving kinship homes. Specifically, the audit examined whether required home approvals were appropriately made.

The State selected a sample of 206 sample children for the period August 1987 to July 1989 and reviewed home approval files. The State found that for 182 (88 percent) of the sample children, HRA did not comply with relative home approval requirements detailed in Administrative Directive 86 ADM-33. Approval violations included the following:

- √ Approval documentation was not provided for review.
- √ 24-hour approvals were performed late.
- √ Full home approvals were performed late.
- √ Annual reapprovals were performed late.

The report went on to state that in the event that a social services district violates home approval requirements, the district must assume the full cost of the child's care (SSL section 20(3) (e)).

The report also stated that by not complying with kinship foster care home approval requirements, HRA could give no assurances that children were placed in appropriate settings and that their health, safety and/or welfare was adequately protected.

We have learned that NYC went to court on the State audit and was successful in having a court declare the audit null and void on various grounds, but primarily because the court concluded that the audit was fiscally motivated. Although the court action negated a fiscal recovery on the State audit, we believe the audit placed NYC on notice about weaknesses in their home approval systems and the importance of maintaining adequate documentation.

We believe the existence of similar findings in the critically important home approval eligibility area requires the immediate attention of the State and NYC. There is a vital link between the home approval process and the safety of these children. We are most concerned that two audits, several years apart, noted such a large percentage of approvals that were not documented. In our opinion, the failure of ACS to furnish documentation for a large number of home approvals raises serious questions as to whether the home approvals that could not be documented were actually performed.

The State of New York has made the fiscal implications of not complying with home approval requirements perfectly clear to NYC and ACS. In this regard, to reemphasize the importance to social service districts, the NYSDFA issued Transmittal No. 97 LCM-38 to local district commissioners on May 21, 1997 which states that no Federal or State reimbursement is permitted for periods of service in a home that is not certified or approved.

Conclusions and Recommendations

Our audit found ACS in noncompliance for 9 children that did not meet the physical removal eligibility requirements and for 108 children, ACS also failed to comply with the home approval eligibility requirements of the Foster Care program.

Similar errors in both these eligibility areas were found in prior periods by ACF with respect to physical removal and home approvals by NYSDFA. For each sampled error, we calculated a fiscal error amount. If the case failed physical removal, all claims for our period of audit were questioned. For late 24-hour approvals, we calculated our adjustment from the date the child was

placed to the date the 24-hour approval was completed. For late full home approvals, we calculated our adjustment starting 60 days following the date of the 24-hour approval until the full home approval was completed. For late reapprovals, we calculated our adjustment 1 year following the completion of the full home approval or prior reapproval. For example, the reapproval for sample child (95-3244) covering the period December 19, 1994 through December 19, 1995 was not completed until April 5, 1995. The period questioned was from December 20, 1994 to March 31, 1995 (102 days). We allowed to the beginning of the month the annual reapproval was performed in calculating our adjustment. Finally, if no home approval documentation was provided, we consider the home as not approved and questioned all costs that were claimed for the period that was not documented. This methodology was discussed with ACF and agreed upon.

The total amount improperly claimed to the Title IV-E program for 111 errors was \$505,523 (Federal share \$252,762). These errors included physical removal requirements for 9 children and 108 children where ACS could not provide documentation to show that the kinship homes were approved or the homes were approved late. We found that for 6 sample children, both physical removal and home approval deficiencies were identified. We counted the deficiency as a physical removal error to eliminate duplication. Based on our results, we have projected overpayments with a lower limit of \$81,482,902 (Federal share \$40,741,451) (see Appendix A for details on our statistical sample methodology). Our tests were based on stratified sampling techniques and the ranges shown have a 90 percent level of confidence with a sampling precision as a percentage of the midpoint of 15.57 percent.

We are referring our projected overpayments to ACF for their review and the determination of an appropriate resolution.

Recommendations:

We recommend that NYS:

1. Work closely with NYC in developing and implementing a comprehensive corrective action plan which ensures that ACS complies with the physical removal eligibility requirements and more importantly, that ACS takes immediate and effective corrective action to ensure that children are only placed in approved homes.
2. Monitor and test on a periodic basis that actions taken by ACS and NYC are sufficiently adequate to ensure compliance with the physical removal and home approval eligibility requirements of the Title IV-E Foster Care program.

OTHER MATTERS

Because of the home approval deficiencies we identified, we attempted to expand our audit scope to include a review of ACS's current home approval system "Connections." We included this audit step based on a letter we received from ACS which suggested that we select a sample of current kinship placements and review the process as it exists today. The ACS and State officials advised us that this new system should have alleviated the home approval problems that we identified during our current review.

Connections is a statewide child welfare computer system. It was designed under the auspices of NYSDFA to comply with provisions of the Federal Omnibus Reconciliation Act of 1993, which provided Federal funding for the creation of statewide automated child welfare information systems. The program is meant to provide every caseworker with a computer and links to a statewide system with easier access to case records, tracking reports, and other information. Initially, we were advised by NYC officials that approvals and reapprovals of kinship homes would be directly input into "Connections". The State began implementing this system in late 1996. The part of the system dealing with home approvals was up and running on July 1997.

To survey the system, we selected 20 of our sample children. We selected 10 children that approvals were the responsibility of ACS and 10 children that reapprovals were performed by the voluntary agencies. We attempted to trace all 20 children through "Connections" for FY 1997 and 1998 to determine whether home approval deficiencies we identified in FY's 1995 and 1996 were corrected.

We met with NYC officials in order for them to demonstrate how the system worked. We were able to find current reapproval information on the system for 10 children under the case management of ACS. However, ACS officials could not access the voluntary information. We were told that we would have to go to the voluntary agencies to access home approval information in "Connections." We requested that ACS make arrangements with the voluntary agencies involved for us to visit and obtain the approval data. However, the ACS never made these arrangements.

In order to verify the accuracy of ACS approval information in the system, we requested documentation which would support and establish the propriety and accuracy of the computer information. Our request was officially made in a letter dated December 15, 1998. However, the ACS officials did not respond to this request. Without the assistance of ACS officials, we were unable to complete this part of our review. We are planning to begin our review of ACS's current system later this month.

NYS and ACS Comments

We received separate comments from NYS and ACS which are appended in their entirety as Appendix B to this report.

With respect to the projected overpayments, NYS did not specifically comment on its agreement or disagreement with the basis of the findings. Rather, NYS discussed that additional documentation would be provided and certain adjustments should be made in finalizing the report. Neither NYS nor ACS provided specific challenges to the factual accuracy of our finding.

With respect to the programmatic recommendations, both NYS and ACS expressed interest in improving program controls. Specifically, NYS did concur with our recommendations for them to work closely with NYC in developing and implementing a comprehensive corrective action plan and to monitor and test on a periodic basis that actions taken by ACS and NYC are sufficiently adequate to ensure compliance with the physical removal and home approval eligibility requirements of the Title IV-E Foster Care program. In addition, ACS recommended that Federal, State and city officials jointly develop corrective action and reinvestment plans that target areas needing improvement to increase overall compliance.

The ACS also offered comments about progress that had been made. Regarding physical removal, ACS indicated that it is strongly committed to claiming Title IV-E funding for only those kinship homes that meet Federal physical removal requirements. The ACS noted that a child may have failed physical removal at the original time of placement, many years ago, however, this is not reflective of current agency practice related to compliance. The ACS's current procedures (Procedure No. 63), on which Categorical Eligibility Specialists have been trained extensively, are designed to ensure that children in kinship homes who do not meet removal criteria will not be claimed under Title IV-E.

For the home approval issue, ACS agrees that the home approval process is designed to ensure that foster children are placed in safe and healthy homes. The ACS states that of the 134 home approval deficiencies identified in the draft report, 123 were identified in the reapproval process and only 11 deficiencies related to the initial home study/approval stage. Moreover, ACS states that the 123 homes were previously approved and these homes were cited as deficient for a period of time due to a delay in the re-approval process. The ACS contends that documents needed for Title IV-E compliance were not always readily obtainable due to voluminous case files, staff relocations, and inadequate storage space. However, ACS has currently begun a plan to improve case record formats and the consolidation of records.

The ACS also states that since its creation in 1996, it has taken aggressive action to improve compliance in all Federal eligibility areas, including home approvals and this corrective action process has resulted in a dramatic increase in the ACS rate of compliance as reflected in the State's computer system. The ACS stated that the current rate of compliance with home

approvals is 97.6 percent for contracted care and 96.4 percent for direct care homes as of July 17, 1999.

OIG Response

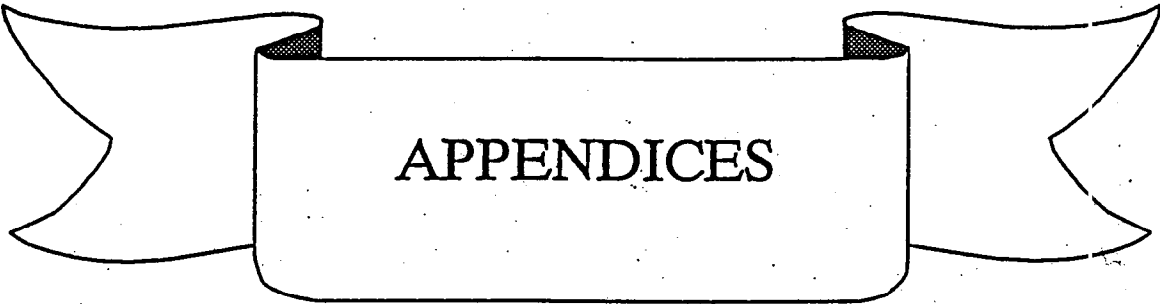
We are pleased that both NYS and ACS have expressed an interest in improving program controls. We have examined additional documentation that ACS provided subsequent to our draft report and have lowered our sample items by 6.67 percent for the administrative cost component paid to voluntary agencies for the period October 1, 1994 through September 31, 1996 and by 3.33 percent for the social services component for voluntary agencies that was repaid to the Federal Government for the period October 1, 1994 through March 31, 1995. Our draft report already included the 3.33 percent reduction for the period April 1, 1995 through September 30, 1996.

As for the NYSDFA decreasing adjustment of \$7.9 million to the Title IV-E Foster Care program, we have verified that eight cases (6 physical removal and 2 home approval) within our sample were included in the adjustment. We have adjusted our sample items for these 8 cases.

After making the above adjustments to our sample results based on the additional documentation provided by ACS, we reappraised the sample and projected overpayments with a lower limit of \$81,482,902 (Federal share \$40,741,451). (See Appendix A for details on our statistical sample projection.)

With respect to ACS comments about missing documentation, we must reemphasize that we provided ACS with periodic briefings and summaries detailing missing documentation throughout this review. We also offered assistance to ACS in its efforts to find missing documentation. However, our offer was not accepted. Lastly, we gave ACS the opportunity to locate and provide documentation subsequent to our draft report through August 31, 1999 and we gave proper credit when appropriate documentation was provided.

Regarding ACS's comments that their current system for handling home approvals has resulted in a dramatic increase in compliance with Federal eligibility, we can only restate what we reported in the "Other Matters" section of our report. We attempted to review the new system, however, we were unable to complete this part of our review due to ACS officials failure to respond to our audit requests. We are planning to begin our review of ACS's current system later this month. At that time, we will be able to assess whether the home approval deficiencies noted during this review have been addressed.



APPENDICES

STATISTICAL SAMPLING METHODOLOGY

Objective:	To evaluate whether New York State (NYS) and New York City, through the Administration for Children's Services, had implemented adequate controls to comply with title IV-E "physical removal" requirement for foster care children placed in homes of relatives and to determine whether kinship children are in homes that have been approved as meeting NYS standards for licensing.
Population:	The universe consisted of 37,563 children for which NYS claimed \$308 million (\$154 million Federal share) for Federal fiscal years (FFY) 1995 and 1996.
Sampling Unit:	The sampling unit was an individual child who was claimed and/or categorized as a title IV-E kinship foster care child for at least one day for FFY 1995 and 1996.
Sampling Design:	A stratified variable random sample was used.
Sample Size:	We selected a sample of 200 children - 100 from FFY 1995 and 100 from FFY 1996.
Source of Random Numbers	Department of Health and Human Services, Office of Inspector General, Office of Audit Services Random Number Generator.
Estimation Methodology:	<p>The amount of error for a sampling unit was the costs claimed by NYS to the title IV-E program.</p> <p>Using the Department of Health and Human Services, Office of Inspector General, Office of Audit Services Variables Appraisal Program, we estimated the overpayments on claims for children that did not meet the title IV-E "physical removal" requirement or were placed in homes that were not approved.</p>

Statistical Sampling Projections

Results of Sample:

The results of our review of 200 sample claims is as follows

Stratum Number	Number of Claims in Universe	Sample Size	Value of Sample	Number of Errors	Value of Errors
1	20,409	100	773,519	57	300,672
2	17,154	100	685,007	54	204,851
Total	37,563	200	1,458,526	111	505,523

Variable Projections

Errors Identified in the Sample	111
Value of Errors Identified in the Sample	\$505,523
Point Estimate	\$96,504,289

At The 90 Percent Confidence Level:

Upper Limit	\$111,525,676
Lower Limit	\$81,482,902



New York State
Office of
Children & Family
Services

George E. Pataki
Governor

John A. Johnson
Commissioner

July 29, 1999

Mr. Timothy J. Horgan
Regional Inspector General
For Audit Services
Office of Inspector General
26 Federal Plaza
New York, NY 10278

HHS/OIG
OFFICE OF AUDIT
NEW YORK REGIONAL OFFICE

AUG 02 1999

RECEIVED

Re: Common Identification Number A-02-97-02002
Title IV-E Kinship Audit

Dear Mr. Horgan:

Capital View Office Park
52 Washington Street
Rensselaer, NY 12144-2796

We have reviewed the draft report of May 26, 1999 on the audit entitled "Review of Two Selected Eligibility Requirements for New York State Title IV-E Foster Care Claims for New York City". This letter is the response of the Office of Children and Family Services (OCFS) to that draft report. In addition, the Administration for Children Services (ACS) has provided their comments on the report reflecting their concerns and plans to provide additional data to your staff. I have sent their comments to you under separate cover.

Since the release of the draft report there have been several discussions involving staff from your Office, the Administration for Children and Families (ACF), ACS and OCFS to address the findings and recommendations it raised. During that time as well, ACS has provided your staff additional case record documentation to rebut specific audit findings i.e., the physical removal of the child from his or her home and the licensing (approval) status of the kinship foster home(s) the child resided in during the audit period.

We have organized our response to parallel that of the draft report. In addition to summarizing the results of the discussions noted above and the case documentation provided by ACS, we respond specifically to the report's recommendations. The three recommendations of the report are cited in this letter and we respond to them and related findings after each citation.



Recommendation 1

"(OCFS) refund the federal government \$60,280,035."

The draft audit report issued on May 26 alleged that 19 cases failed the physical removal criteria. Since that time ACS has provided to your staff additional case record documentation on the issue. At a meeting on July 15 you provided State and City staff a revised spreadsheet that reflected changes in the OIG audit determinations resulting from the additional submissions. According to that spreadsheet and our discussions, the number of cases alleged to fail removal has been reduced to 15.

The draft audit report also alleges that for 123 of the 200 sampled cases, ACS did not provide documentation that the foster boarding home the child resided in was licensed for part or all of the review period. ACS has provided the OIG staff additional documentation on this issue. According to the spreadsheet and our discussions, the number of cases allegedly with license documentation deficiencies is now 121.

The extrapolation of the draft report findings amounted to \$60,280,035. Your staff understands that we have not analyzed and are not commenting on the extrapolation methodology or its results at this time. We anticipate that the above audit finding revisions and additional documentation provided by ACS after July 15 will reduce the audit disallowance extrapolation. We maintain our right to examine the methodology and results once an extrapolated figure is calculated and presented for the final audit report. At this time we are requesting you to provide us with documentation of the OIG's sample selection process, including the program used in generating the random numbers, the 'seed' number used in this audit and a list of the cases selected in the order they were selected. It is our understanding from your staff that, prior to the release of the final report, the Office of the Inspector General (OIG) staff will present the findings to OCFS and ACS at an exit conference.

We have had several discussions with OIG and ACF staff on factors that need to be accounted for in the final extrapolation and fiscal impact of the audit other than the alleged case record documentation issues. Specifically, there are three factors.

OCFS has discussed with the OIG and ACF staff the Title IV-E decreasing adjustments of \$7.9 million for the two-year audit period that had been previously filed with the federal government. The

decreasing adjustments were developed from the review activities of the New York State Association of Counties (NYSAC) operating under contract with the State. They assessed Title IV-E kinship cases for documentation of the physical removal criteria pursuant to a Settlement Agreement among the State, the City and ACF. The entire value of the IV-E decreasing adjustments (\$7.9 million for the audit period) will be credited to any disallowance based on the physical removal issue. The precise methodology for doing this has not been fully documented. We propose that it is reasonable and accurate for the OIG to assign a \$0 value to all of the 15 cases in the sample having an allegation of physical removal documentation findings in recognition of the \$7.9 million already repaid. The \$0 value would also be applied to the licensing documentation issue on the 11 sample cases having a finding in both areas.

We also discussed the administrative cost component valued at 6.67% of the rate paid to voluntary agencies for foster care. Staff from ACF, the OIG and this Office has agreed that the administrative costs reimbursed under Title IV-E are not related to the license status of the foster boarding homes administered by the voluntary agencies. Consequently, the OIG and ACF staff stated that the administrative cost portion of the rate (6.67%) would not be included in the calculations of the extrapolation to be done for the final report.

The OIG, with the advice of ACF, has also determined that 3.33% of voluntary agency rate representing the social service component of agency payments should not and would not be included in the calculation of the extrapolation as of April 1, 1995. This decision was based on the State's action, after discussions with ACF, to claim the social services component of voluntary agency payments as Title IV-A rather than Title IV-E. Prior to that date, the State had claimed such costs as Title IV-E. OCFS expressed appreciation of this decision by OIG and ACF staff as it was reasonable and an accurate reflection of the Title IV-E claims for the period.

However, we noted that the State, pursuant to a Settlement Agreement between ACF and this Office, had also arranged to repay the federal government the 3.33% social services component claimed as Title IV-E for the period October 1985 through March 1995. We provided your staff copies of that agreement which they have accepted as documentation of the repayment which, in part, was for the October 1994 through March 1995 period covered by the OIG report. Your staff agreed to adjust the disallowed payments to voluntary agencies for that six-month period as part of the extrapolation to be presented in the final report.

Recommendation 2

"Work closely with NYC in developing and implementing a comprehensive corrective action plan which ensures that ACS complies with the physical removal eligibility requirements and more importantly, that ACS takes immediate and effective corrective action to ensure that children are only placed in approved homes."

We address each program recommendation separately.

Physical Removal

We will work with ACS staff to reinforce the physical removal criteria in their procedures and training. We have assisted ACS in Title IV-E training in the past. We are aware ACS has, in past training, provided guidance on this issue. The success of these efforts is evidenced by the virtual absence of errors in documenting removal for placements occurring after June 30, 1994.

We have also provided data to ACS to assist them in removing cases from the IV-E eligibility and claiming rosters that are not documented as meeting the physical removal criteria.

Home Approval

We are aware that ACS has initiated corrective action efforts to address the issue of home licensing and re-licensing. Data developed by ACS indicates they have made enormous strides since the agency's creation to reduce the problem of documentation of home licensing by ACS staff and contracted voluntary agencies. ACS continues to work on this issue to eliminate small residual aspects of the problem, some of which may only be the result of a data entry problem on the ACS files of record, i.e. the Child Care Review System.

OCFS is developing a protocol to evaluate the home licensing and re-licensing process done by ACS and its contracted agencies. We will work with ACS in this effort to assist them in refining and adding to its corrective action efforts as necessary.

Recommendation 3

"Monitor and test on a periodic basis that actions taken by ACS and NYC are sufficiently adequate to ensure compliance with the physical removal and home approval eligibility requirements of the Title IV-E kinship foster care program."

APPENDIX B

Page 5 of 17

OCFS has a Title IV-E monitoring role in all social services districts, including ACS. The corrective action measures discussed under recommendation #2 above will contain evaluation and feedback mechanisms. Once the corrective actions and revised policies and procedures have been put into place, OCFS' Title IV-E monitoring activities will test and evaluate the results.

We are providing these comments to comply with the extended deadline for response to the draft report. It is our understanding that your Office will continue to accept and evaluate documentation on individual cases after the response due date. Further, ACS will continue to work with your staff to reconcile any differences in Title IV-E claim amounts on individual sample cases. Once this is completed to the degree possible and within a reasonable period of time, your staff will provide us with an exit conference to share OIG's final audit determinations prior to the release of the final report. At that point, we would appreciate the documentation of the final extrapolation calculations.

In closing, we want to express our appreciation of the professional and courteous conduct demonstrated by all of your staff during the course of this review.

Sincerely,



Kevin D. Robinson
Director
Bureau of Audit and
Quality Control

cc: John A. Johnson, Commissioner
Nicholas Scoppetta, Commissioner
Edward Bartley
Sylvia Brown
file



New York State
Office of
Children & Family
Services

George E. Pataki
Governor

John A. Johnson
Commissioner

Capital View Office Park

52 Washington Street
Rensselaer, NY 12144-2796

Mr. Timothy J. Horgan
Regional Inspector General
For Audit Services
Office of the Inspector General
26 Federal Plaza
New York, New York 10278

Re: Common Identification Number A-02-97-02002
Title IV-E Kinship Audit

Dear Mr. Horgan:

As indicated in my letter to you dated July 29, I am attaching herewith a copy of the Administration for Children and Family Services (ACS) response to the above referenced audit. Any questions that you may have regarding specific issues raised in the ACS response should be directed to Sylvia S. Brown, Audit Director for ACS.

If you should have any general questions or would like to discuss the audit process itself, please do not hesitate to give me a call at (518) 473-4448.

Sincerely,

Kevin D. Robinson
Director
Bureau of Audit & Quality Control

cc: John A. Johnson, Commissioner
Nicholas Scoppetta, Commissioner
Edward Bartley
Sylvia S. Brown
file

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July 29, 1999

HHS/OIG
OFFICE OF AUDIT -
NEW YORK REGIONAL OFFICE

AUG 02 1999

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ADMINISTRATION FOR CHILDREN'S SERVICES
OFFICE OF CHILD CARE AND HEADSTART/
CHIEF FINANCIAL OFFICER
150 William Street - 10th Floor
New York, NY 10038

NICHOLAS SCOPPETTA
Commissioner

DAVID FAZIO
*Acting Deputy Commissioner/
Chief Financial Officer*

SYLVIA S. BROWN
Director, Audit

July 23, 1999

Mr. Kevin Robinson, Executive Director
Bureau of Audit and Quality Control
New York State Office of Children & Family Services
52 Washington Street
Rensselaer, NY 12144-2796

Re: DHHS/OIG Draft Audit Report #A-02-97-02002
Review of Two Selected Eligibility Requirements, New York State
Title IV-E Foster Care Claims for New York City

Dear Mr. Robinson:

Thank you for providing the Administration for Children's Services (ACS) with an opportunity to respond to the draft audit report indicated above. As we have stated in the past, we strongly disagree with the \$60.28 million Federal share disallowance and we will continue to seek appropriate documentation and to respond to the questioned costs.

Creation of ACS

Mayor Giuliani created ACS on January 10, 1996 and appointed Nicholas Scoppetta as Commissioner on February 10, 1996. The first year was crucial for determining the ACS organizational structure, hiring critical staff, developing a proactive reform plan, as well as managing the day to day operation of the agency. The ACS Reform Plan, "Protecting the Children of New York," was issued on December 19, 1996. Therefore, many of the findings relate to periods before the creation of ACS as an independent agency. As discussed in detail below, the ACS reforms have resulted in considerable improvement in the areas covered in the audit.

Removals

ACS' Federal claims for this period should not be reduced any further due to physical removal since adjustments have already been made to return Federal funds. New York City and New York State agreed, pursuant to the 1995 Title IV-E, New York City

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Kinship Disallowance Settlement Agreement, to revise claims for cases that did not meet the removal criteria. It is our understanding that the Institute for Health and Human Services (IHHS) had assisted ACS in taking down IV-E claims retroactively to meet the terms of this agreement, including taking down claims for some cases pertaining to this audit. It is our understanding that the amount of the take down was \$7.5 million in Federal share for the period from October 1994 through September 1996.

ACS is strongly committed to claiming IV-E funding for only those kinship homes that meet Federal physical removal requirements. Please consider that a child may have failed physical removal at the original time of placement, many years ago, however this is not a reflection of current agency practice related to compliance. ACS' current procedures (Procedure #63), on which Categorical Eligibility Specialists have been trained extensively, are designed to ensure that children in Kinship homes who do not meet the removal criteria will not be claimed under Title IV-E. (Attached is a copy of relevant sections and a copy of the RES 1.)

Home Approvals

ACS agrees that the home approval process is designed to ensure that foster children are placed in safe and healthy homes. Of 134 home approval deficiencies cited in the audit, 123 or 91.8% were identified in the re-approval process; and only 11 deficiencies related to the initial home study/approval stage. It is important to emphasize that ACS' staff had previously approved the 123 homes. These homes were cited as deficient for a period of time due to a delay in the re-approval process.

Since its creation in 1996, ACS has taken aggressive action to improve compliance in all Federal eligibility areas, including home approvals. This corrective action process has resulted in a dramatic increase in the ACS rate of compliance as reflected in the State's computer systems. The current rate of compliance with home approvals, as reflected in reports generated weekly by the New York State Office of Children and Family Services (NYSOCFS), is 97.6% for contracted care and 96.4% for Direct Care homes as of July 17, 1999. These reports are reviewed at ACS' weekly Quality Improvement meetings. This data is for all foster boarding homes including kinship homes. In addition, for the October 1996 direct foster parent payroll, ACS began to pay through the BICS system. This system does not allow payments for homes lacking certification or approval to be claimed as Title IV-E. Clearly, these are remarkable improvements that signal the direction of the new agency and a strong emphasis on child safety and compliance.

Documents indicating Title IV-E compliance, are not always readily obtainable due to voluminous case files, staff relocations, and inadequate storage space. These documents are ultimately found at ACS, contract agencies, and in court files. Consequently, ACS has begun a plan to improve case record formats and the consolidation of records. This plan was shared with the Mayor's Office of Operations.

The foregoing are the activities taking place while ACS is awaiting the implementation of CONNECTIONS Release #4, which will provide payments to contract agencies based upon placement information contained in CONNECTIONS. This system also will not allow payments for unapproved or uncertified homes to be claimed as Title IV-E.

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With regard to the specific cases covered by this audit, ACS is continuing to locate home approval documentation pertaining to the audit period and will submit it as soon as it has been obtained. (A sample letter that was sent to all foster care contract agencies with outstanding home approvals identified as questioned is attached.)

Finally, we are requesting that the following sentence be deleted from the final report: "Also, our findings are very disturbing because auditors from New York State had found identical problems in a prior period audit of NYC." We believe that it is inappropriate to refer to the results of the "Kinship Comprehensive Foster Care Audit," dated March 30, 1990, because the results of that audit were voided by a New York State Court. This decision was made in the case of City of New York v. Perales, which directed the return of money the State had withheld from the City.

Issues Needing Resolution

It is ACS' understanding that HHS/OIG is allowing additional time after this response is due to:

- reconcile ACS' and HHS' claiming figures as well as adjustments made subsequent to the audit period. OIG staff indicated that ACS would have an opportunity to review on a case-by-case basis the OIG documentation of the Title IV-E claim amounts, including service, payment, and eligibility dates.
- verify that the 3.33% of social services costs in the contract agency rates were not included in the disallowance calculations.
- confirm methodology used by HHS/OIG in extrapolating questioned costs to the kinship population universe.

Confirmation of Agreements

OIG confirmed to ACS at the July 15, 1999 meeting that 6.67%, which represents allowable costs included in the administrative component of the contract agency rates and claimed as IV-E, will not be included in the disallowance calculations.

Further, ACS will be allowed to produce additional documentation to resolve questioned costs until the final disallowance letter is issued. In the event that this audit produces disallowances, ACS will be allowed to go through the usual deferral and disallowance procedures.

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Recommendation

ACS strongly recommends that no disallowances be taken against New York City as such action only removes critical funding that is needed for abused and neglected children. Instead, we recommend HHS, OCFS and ACS jointly develop a corrective action/reinvestment plan that targets areas needing improvement to increase overall compliance.

If you have any questions concerning our response, please contact me at 212-676-8855.

Sincerely,



Sylvia S. Brown

c: David Fazio
Susan Nuccio
Shirley Whitney
John Conboy (By Fax)



DIVISION OF AUDIT
OFFICE OF FINANCE, AUDIT & BUDGET
ADMINISTRATION FOR CHILDREN'S SERVICES
150 WILLIAM STREET - 10th FLOOR, NEW YORK, N.Y. 10038
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NICHOLAS SCORPETTA
Commissioner

DAVID FAZIO
*Acting Deputy Commissioner
Chief Financial Officer*

SYLVIA S. BROWN
Director, Audit

July 22, 1999

Mr. Anthony J. Veronico, Executive Director
Talbot Perkins Children's Services
116 West 32nd Street
New York, New York 10001

RE: HHS/OIG FEDERAL KINSHIP AUDIT

Dear Mr. Veronico:

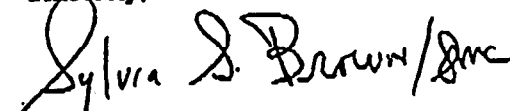
We need your assistance in locating the Home Approvals required by the Department of Health and Human Services/Office of the Inspector General (DHHS/OIG) for the audit they are performing on the kinship foster care program administered by the Administration for Children's Services (ACS). I have attached a detailed list of case(s) that are assigned to your agency and ask that your staff make a diligent effort to locate the missing Home Approvals for the time period indicated.

For more than two years, the HHS/OIG has been conducting an audit of the Kinship Foster Care Program. In this audit, they have asked ACS to produce specific documents to substantiate, kinship foster care claims. The specific documents they require are the Home Approvals (Home Study) covering the entire audit period involved. Failure on the part of the City to produce this documentation will result in a potential disallowance of the entire claim. The amount disallowed for the claim will then be extrapolated to the entire kinship foster care population for the period under audit. This could be extremely costly to the City.

Please forward copies of all pertinent documentation located, clearly marked HHS/OIG Kinship Audit, to the attention of Mr. Santo-M. Cuccia, at the above address as soon as possible. Mr. Cuccia can be reached at (212) 676-8817 should there be any questions.

Thank you for your diligent efforts in locating the required documentation. Your efforts are greatly appreciated.

Sincerely,


Sylvia S. Brown

cc: D. Fazio
S. Whitney
S. M. Cuccia

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Rev. 6/93 INITIAL REIMBURSEMENT ELIGIBILITY STUDY Human Resources Administration Child Welfare Administration

PLEASE PRINT IN INK. List all family members using Line numbers from Form DDS-2921 or Form DS-2970.

Case Name (Last, First Name(s))					Unit/Worker Number:	
					Case Number:	
Line #	Last Name	First Name	DOB	CIN	Planning Agency	Dr. Serv.
1						
2						
3						
4						
5						
6						

*Direct Service Codes: 08 - Foster Care 17 - Indicated/Open Protective 25 - Mandated Preventive 26 - Non-Mandated Preventive

IM Clearance Date: _____ IM Recipient: Yes No SSI Clearance Date: _____ SSI Recipient: Yes No

WMS/NYC Screenshot Specify Child's Line # _____ WMS/NYC Screenshot

SECTION III - TITLE IV-E ELIGIBILITY COMPLETE FOR FOSTER CARE ONLY

Date Court Petition Filed or Form W-864 signed: _____ DFY Placement: Yes No

A. FOSTER CHILDREN MUST MEET ALL REQUIREMENTS BELOW FOR TITLE IV-E ELIGIBILITY:

1. **LEGAL AUTHORITY** - Was the child removed from the home of a parent/other relative as the result of a court order under articles 10 (neglect/abuse), 7 (PINS) or 3 (JO)? OR

Was a voluntary placement agreement signed by the child's parent(s)/guardian(s)?

NO - Line # _____ Child ineligible for Title IV-E. RETURN CASE TO CASE MANAGER FOR LEGAL DOCUMENTATION.

YES - Line # _____

Basis of Legal Custody Line # _____ Date of Order _____ Docket # _____

Line # _____ Date voluntary agreement was signed _____

2. **AGE** - Was the child under the age of 18 on the date that the court petition was filed or W-864 signed?

NO - Line # _____ Child ineligible for foster care - STOP.

YES - Line # _____ Documentation of age: _____

3. **LIVING WITH A SPECIFIED RELATIVE** - Was the child living in the home of a specified relative at any time within six months prior to the month that the voluntary placement agreement was signed or a court proceeding was initiated?

NO - Line # _____ Child ineligible for Title IV-E. GO TO SECTION III.

YES - Line # _____ Child lives with Kinship relative only. GO TO SECTION II.

YES - Line # _____ Name of relative and relationship: _____

4. **PARENTAL DEPRIVATION** - Was the child deprived of parental support and care for one or more of the following reasons?

A. Absence from the home B. Incapacity of parent C. Unemployed parent (ADCU) D. Death of parent(s)

NO - Line # _____ Child ineligible for Title IV-E. GO TO SECTION II.

YES - Line # _____ Circle all reasons that pertain and indicate the documentation: _____

5. **FINANCIAL ELIGIBILITY** - Was the child in receipt of ADC during the month that either the voluntary agreement was signed or the court proceeding leading to the removal of the child from the home was initiated? OR

Would the child have received ADC assistance during that month, as above, if application for assistance had been made per ABEL budget calculation? OR

Was the child living with a specified relative within six months prior to the month in which the voluntary placement agreement was signed or a court proceeding was initiated, and would have received ADC assistance in that month if the child had been with that relative and an application for ADC assistance had been made?

NO - Line # _____ Child ineligible for Title IV-E. GO TO SECTION II.

YES - Line # _____ Financial eligibility documentation: ADC # _____ ABEL attached.

Continue to "B", TITLE IV-E Eligibility Summary.

B. TITLE IV-E ELIGIBILITY SUMMARY:

3. Living with a Specified Relative

Child was living with a relative within the fifth degree within six months prior to the month in which the court petition was filed or the voluntary agreement was signed

NOTE: The "specified relative" must be someone other than the kinship foster parent

4. Parental Deprivation

Child must be deprived of parental support and care at the time of placement for one or more of the following reason(s):

- Parent(s) absent from the home
- Incapacity of parent(s)
- Unemployed parents (ADC-U)
- Death of parent(s)

Financial Eligibility

Child in receipt of ADC during the month that either the voluntary placement agreement was signed or the court proceeding leading to the removal of the child from the home was initiated

-or-

Child would have received ADC assistance during that month, as above, if application for PA had been made

-or-

Child was removed from the home of a caretaker other than a specified relative, AND would have received ADC assistance had the child been living with a specified relative in the month of placement

PA Cases

WMS/NYC clearance showing active ADC/ADC-U case

Non-PA Cases

Case record progress notes/Service Plan Reviews, court petitions, etc., which indicate that the child was living with a specified relative within 6 months of the date that the court petition was filed or the voluntary agreement was signed

PA Cases

WMS/NYC clearance showing active ADC/ADC-U case

Non-PA Cases (Any of the following)

- Case record progress notes/Service Plan Reviews and other documentation showing that a parent is absent from the home AND/OR
- Copy of medical/treatment report containing diagnosis/treatment and relationship of incapacity to the child's need for foster care; or progress note entry indicating telephone verification of above; or progress note entry of observation of obvious physical handicap, e.g., loss of arm, etc. AND/OR
- Death certificate or other legal document indicating death of parent(s)

PA Cases

WMS/NYC clearance showing active PA case for the child in the month of placement

Non-PA Cases

AREL budget showing child's family's income was within the PA standard in the month of placement

Note: The above documentation also applies to those situations in which the child was removed from the home of a non-specified relative, but would have been eligible for ADC assistance had the child been living with a specified relative in the month of placement

EAP ELIGIBILITY
(placement, preventive, protective)

Criterion	Requirement	Documentation
Emergency situation	Child requires services due to an emergency situation resulting from any of the circumstances listed on the RBS-1 form	<p>Placement Cases: Court order under Article 10, 7, or 3 or Form W-864/864Y, "Voluntary Placement Agreement," signed by the parent(s)/caretaker(s) AND case record progress notes/Service Plan Reviews documenting the circumstances of the removal of the child from the home</p> <p>Preventive Cases: Case record progress notes documenting the circumstances resulting in the provision of emergency services</p> <p>Indicated Protective Cases: Oral Report Transmittal(s)</p>
Living with a specified relative	Child must have been living with a relative within the fifth degree within six months prior to the month in which the child received services	<p>PA Cases WMS/NYC clearance showing active ADC/ADC-II case</p> <p>Non-PA Cases Case record progress notes/Service Plan Reviews, court petitions, etc., which indicate that the child was living with a specified relative within 6 months of service initiation</p>
Previous Funding	EAP was not provided in the past 12 months (excluding the period 30 days prior to placement, if a foster care case)	CWA case record indicates that EAP was not provided during the 12 months preceding the initiation of services resulting from the emergency situation
Insufficient resources	Income/resources of the parent(s)/child were not immediately available at the time of the emergency situation which resulted in the initiation of services	<p>CWA case record documents that income/resources immediately accessible to the child at the time of the emergency were insufficient to meet the cost of services including the cost of foster care</p> <p><u>Preventive/Protective Cases</u> - Family must be in receipt of public assistance or Supplemental Security Income</p>

(continued on next page)

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The second "YES" box should be checked and the name and relationship of the "specified relative" documented. Proceed to the next IV-E criterion.

Example: In the 6 months prior to filing an Article 10 petition, the child lived in the household of his mother and grandmother. The mother has since left the household. The grandmother is now the approved kinship-relative foster parent.

This child would meet the "living with a specified relative" requirement since the child had lived with his mother ("specified relative") within the prior six month period.

The second "YES" box should be checked and the name and relationship of the "specified relative" documented. Proceed to the next IV-E criterion.

Parental Deprivation

Child must be deprived of parental support or care by reason of (1) continued absence of parent from the home, or (2) physical or mental incapacity of the parent, or (3) death of parent, or (4) unemployment of parent (documented by receipt of ADC-U only) at the time that the court petition leading to the child's placement was filed or voluntary agreement signed.

Financial Eligibility

Child must have been in receipt of ADC in or for the month in which the court petition leading to the child's placement was filed or voluntary agreement was signed.

OR

child would have received ADC assistance in such month if application for assistance had been made

OR

child was removed from the home of a caretaker other than a specified relative (but passed the specified relative test [Criterion 3]) and would have received ADC assistance had the child been living with the specified relative in such month and application for assistance had been made.

A WMS/NYC clearance indicating that a child was in receipt of ADC in the month that the court petition was filed or the voluntary agreement was signed, serves to document all of the IV-E requirements except "legal authority."

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NOTE: On the Form RES-1, Section I, criterion # 3, *Living With a Specified Relative*, you will note that in addition to a "NO" choice, there are two possible "YES" choices. The purpose of these choices is to isolate those kinship placements which are not eligible for Title IV-E funding:

INELIGIBLE: Those placements in which the "specified relative" and the "kinship relative" are one and the same person, i.e., "*Child lives with kinship relative only*" (the first "YES" choice).

Example: In the prior 6 months, the child lived *solely* with his grandmother. The grandmother is now the approved kinship relative foster parent.

This child would fail the "living with a specified relative" requirement because the "specified relative" (the grandmother) and the kinship relative are one and the same person.

The first "YES" box should be checked. Proceed to Section II (RAF eligibility).

ELIGIBLE: Those placements in which the "specified relative" is someone other than, or in addition to the "kinship relative."

Example: Child lived with his mother until May, 1993. In August, 1993, the child is placed in foster care with his grandmother, the approved kinship foster parent.

This child would meet the "living with a specified relative" requirement since the child had been living with his mother ("specified relative") within the prior six month period.

The second "YES" box should be checked and the name and relationship of the "specified relative" documented. Proceed to the next IV-E criterion.

Example: Child is born August 1, 1993 with withdrawal symptoms. Hospital reports alleged abuse to the SCR. Child remanded to foster care on August 10, 1993. Child enters foster care directly from the hospital.

This child would meet the "living with a specified relative" requirement since the child had been living with his mother within the prior six month period. (A mother is considered to

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B. INITIAL CERTIFICATION OF ELIGIBILITY: FORM RES-1

1. Section IA - Title IV-E Eligibility Requirements

Enter the "Date Petition Filed or W-864 Signed" and check appropriate box to indicate if child is placed in a Division For Youth (DFY) facility.

Proceed through Section IA following instructions on the RES-1 form, using the *Certification: Eligibility Desk Aid* as a guide to the documentation requirements. Attach copies of supporting documents to the RES-1.

A discussion of the IV-E certification criteria follows:

Legal Authority

-Children Placed Under FCA Articles 3 (JD), 7 (PINS) or 10 (Abuse/Maltreatment) - there must be a judicial determination (remand or dispositional order) to the effect that continuation in the home would be contrary to the welfare of the child and that reasonable efforts were made, when appropriate, to prevent placement. (If child is taken into protective custody without a court order, an Article 10 petition must be filed within 3 working days of removal from the home.)

-Voluntarily Placed Children - there must be a "Voluntary Placement Agreement" (Form W-864) signed by the parent(s) or legal guardian(s) and the local district. (An SSL 358-a petition must be filed prior to the 60th day of placement and the court must determine that continued placement is in the best interests of the child within 180 days of placement).

NOTE: Neither a voluntary surrender instrument nor a "Voluntary Agreement By Person Entrusted With Care of Child" (Form W-864Y) is valid for IV-E eligibility purposes.

Age

Child must be under the age of 18 when entering foster care.

Living With a Specified Relative Within 6 Months

Child must have been living with a relative within the fifth degree (i.e., a "specified" relative) within six months prior to the month in which the court petition was filed or the voluntary agreement was signed. (See Appendix for listing of "specified" relatives).