

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**RETROACTIVE CLAIMS
FOR THE TITLE IV-E FOSTER
CARE PROGRAM RESUBMITTED BY
THE MISSOURI DEPARTMENT OF
SOCIAL SERVICES**



**JUNE GIBBS BROWN
Inspector General**

FEBRUARY 1996
CIN: A-07-95-01010



Region VII
601 East 12th Street
Room 284A
Kansas City, Missouri 64106

CIN: A-07-95-01010
February 20, 1996

Mr. Gary J. Stangler
Director, Department of Social Services
Broadway State Office Building
P.O. Box 1527
Jefferson City, Missouri 65 102

Dear Mr. Stangler:

This report provides you with the results of an Office of Inspector General (OIG), Office of Audit Services (OAS) review titled *Retroactive Claims for the Title IV-E Foster Care Program Resubmitted by the Missouri Department of Social Services*. The objective of our review was to determine the allowability of retroactive quarterly claims totaling \$12,236,529 in Federal financial participation (FFP) resubmitted by the Missouri Department of Social Services (State) for reimbursement under the title IV-E Foster Care program.

We determined that \$7,990,234 (FFP) resubmitted for Federal reimbursement was allowable. However, our review also determined that \$4,246,295 (FFP) was not allowable as discussed below and summarized in Appendix A:

- Claims totaling \$4,109,375 (FFP) for calendar year 1989 did not meet the timeliness filing requirement because Federal regulations require a claim be filed within 2 years after the quarter when services were provided. We are recommending a financial adjustment of \$954,927 for the first quarter and are setting aside \$3,154,448 for ACF resolution for the remaining three quarters.
- An additional \$136,920 (FFP) was unallowable because children not meeting age criteria were included in the computation of allocation rates used to claim title IV-E administrative costs. We are recommending a financial adjustment of \$136,920.

The State disagreed with our finding that the 2-year filing requirement was not met. They maintained that the claims were filed using an acceptable procedure within the 2-year time limit. In addition, they maintained that because the claims were resubmitted as a result of an audit, that 45 CFR 95.19 establishes an exception to the 2-year time limit.

The State agreed that the computation to determine the rate at which to allocate certain administrative costs between title IV-E and non-title IV-E, should not contain ineligible

children in the numerator. Also, they agreed to review the system to assure the eligibility rates are computed correctly, and make adjustments to the system as necessary. However, the State did not agree or disagree to make a financial adjustment of \$136,920 (FFP).

A copy of the State's comments in their entirety has been appended to this report.

INTRODUCTION

BACKGROUND

The 1967 amendments to the Social Security Act established foster care as a mandatory program under title IV-A, Aid to Families with Dependent Children (AFDC). In 1980, the Adoption Assistance and Child Welfare Act, Public Law 96-272, established the title IV-E program. Title IV-E authorized Federal funds for states to enable them to provide foster care and adoption assistance for children under an approved State plan.

The Department of Health and Human Services, Administration for Children and Families (ACF), administers title IV-E at the Federal level. In Missouri, the Department of Social Services is responsible for administering title IV-E. The local offices determine eligibility of foster children and place these children into licensed homes. Costs related to the title IV-E Foster Care program are allocated in accordance with the Division of Family Services (DFS) portion of the Cost Allocation Plan (CAP).

During 1991 and 1992, the State filed five retroactive claims with ACF for costs of the title IV-E Foster Care program. These claims totaled \$17,861,646 (FFP) and covered the period January 1, 1989 through December 31, 1991. The retroactive claims represented administrative and maintenance costs for children originally identified as State-only eligible and later determined eligible for title IV-E Foster Care. As requested by ACF, we reviewed those claims. Our prior review (CIN: A-07-92-00601, dated March 8, 1994) determined that State records did not support the claims. On October 5, 1994, the Commissioner of ACF advised the State in a Letter of Notification that ACF concurred with our recommendations.

The State subsequently withdrew the five retroactive claims for \$17.9 million (FFP) on November 16, 1994 and simultaneously resubmitted claims totaling \$12,236,529 (FFP). This resulted in a net reduction of \$5,625,117 (FFP) in the State retroactive title IV-E claims for the period January 1, 1989 through December 31, 1991. By withdrawing the entire claim, the State postponed ACF taking any action on the prior report. Regional ACF officials subsequently requested review of the resubmitted title IV-E retroactive claims.

SCOPE OF REVIEW

We conducted our review in accordance with generally accepted government auditing standards. The purpose of our review was to determine the allowability of the retroactive title IV-E claims for prior quarter adjustments resubmitted on November 16, 1994. We

relied on the prior audit (CIN: A-07-92-00601) of the retroactive claims for our review of internal controls.

During the current review, we: (1) reviewed the work performed on the initial review of the State's retroactive title IV-E claims and performed additional work deemed necessary; (2) discussed pertinent policies, procedures, and practices with officials of the State and ACF; (3) verified the State's calculation of the quarterly rates used to claim title IV-E costs; (4) randomly selected and reviewed 216 foster care cases from the State's historical listing of children in the Alternative Care Tracking System (ACTS), which is used in determining quarterly rates; and (5) reviewed 25 out of the 216 cases for concurrence with the State's determination that title IV-E eligibility requirements had been satisfied.

For the 216 cases, we reviewed the children's current status in the ACTS and, where title IV-E eligibility differed from the historical listing, we obtained additional information to support the children's title IV-E eligibility classification as shown in the historical listing.

We performed our work during the period February through July, 1995 at the State offices in Jefferson City, Missouri.

FINDINGS AND RECOMMENDATIONS

TIMELINESS FILING REQUIREMENT

The State's resubmitted title IV-E retroactive claims included \$4,109,375 (FFP) which were outside the 2-year regulatory deadline for filing claims and therefore unallowable. We are recommending a financial adjustment of \$954,927 for the first quarter, and are setting aside for ACF resolution \$3,154,448 for the other three quarters.

Filing Requirement

Federal regulations (45 CFR 95.7) require a claim to be filed within 2 years after the quarter when services were provided. The implementing regulations state that the Federal government will pay for expenditures only if:

. . . the State files a claim with us for that expenditure within 2 years after the calendar quarter in which the State agency made the expenditure. (45 CFR 95.7)

Initial Retroactive Claims for 1989

During calendar years 1991 and 1992, the State filed retroactive claims totaling \$17.9 million (FFP). Our prior review determined that the \$17.9 million included retroactive claims for

calendar year 1989 which were outside the 2-year filing period (See Appendix B). We were concerned about the manner in which the State attempted to meet the 2-year filing period required by Federal regulations because:

- (1) the original revised claims for all four quarters in 1989 were not based on any actual case file documentation, but were estimated using a computer match that considered only one of the several required criteria used to qualify children for title IV-E,
- (2) the review to determine eligibility was not started until after the first two revised claims had been filed,
- (3) the revised claims showing actual costs were not submitted until after the 2-year filing period had expired, and
- (4) the claims were subsequently found to be incorrect; documentation showed the claimed amounts to be too high.

Essentially, the State attempted to meet the 2-year deadline by filing claims based on an invalid procedure for estimating the amount claimed. The State did not identify eligible cases until after the 2-year filing period.

The State disagreed that their initial retroactive claim did not meet the 2-year filing requirement. The State said that the basis of the retroactive claims was a computer match which they considered to be sufficient documentation for submitting an increased adjustment, and they did not consider it to be an estimate. The computer match determined the percentage of eligible title IV-E cases to be claimed by matching non-title IV-E foster care cases to AFDC files. The match indicated over 70 percent of the cases had received AFDC. This percentage was used in filing the retroactive claim.

However, the State incorrectly assumed that children listed as receiving AFDC were automatically eligible for title IV-E. Receipt of AFDC was only one of several criteria which was required to be met to qualify children for title IV-E.

Our prior report did not recommend financial adjustments associated with the claims exceeding the 2-year filing period because ACF would consider this issue if the State elects to file a revised claim.

In a Letter of Notification dated October 5, 1994, the Commissioner of ACF advised the State that ACF concurred with our finding stating:

In accordance with 4.5 CFR part 95.7, a claim must be filed within 2 years after the quarter that services were provided.

In one instance the claim for the quarter ending March 31, 1989 was not submitted until

June 27, 1991 which clearly exceeded the 2-year time limitation. In the other instances I would have to conclude on the basis of the process and progression that the claims were based on estimates. Of the original revised claims for all four quarters in 1989, the review to determine eligibility was not started until after the first two revised claims had been filed. In addition, the revised claims showing actual costs were not submitted until after the 2-year filing period had passed. In the final analysis, the auditors stated the claims were subsequently found to be wrong as documentation showed the claimed amounts to be too high.

The agency computer generated report submitted by the State agency is insufficient in meeting the 2-year filing requirement for several reasons. If the computer match was not an estimate, the adjustments based on the case review would be unnecessary.

*Also, the report merely identified the children in the Foster Care system that had received AFDC prior to placement in Foster Care. **As the auditors stated, the linkage between receipt of AFDC and eligibility for title IV-E is relevant only if other title IV-E eligibility criteria are met.** They correctly stated that **by itself, receipt of AFDC eligibility does not entitle one to title IV-E eligibility.** (Emphasis added)*

Resubmitted Claims

On November 16, 1994, the State simultaneously withdrew the initial claims and filed resubmitted claims of \$4,109,375 (FFP) for calendar year 1989. Based on the previous report, we have determined that \$954,927 (FFP) was clearly outside the dates for filing the initial claim. Further, \$3,154,448 (FFP) did not meet the filing requirement because it was based on an invalid procedure for estimating the amount claimed. Because this issue was not resolved in the prior report, we are setting aside \$3,154,448 (FFP) for resolution by ACF.

Recommendations

We recommend that the State:

- (1) Adjust \$954,927 (FFP) from resubmitted claims for first quarter of 1989.
- (2) Resolve with ACF \$3,154,448 (FFP) in resubmitted claims for the other three quarters of 1989.
- (3) Submit future revised claims within the 2-year filing period required by Federal regulations.

Auditee Comments

We disagree with the finding and recommendation.

Because the claims were resubmitted as the result of an audit, federal regulations at 45 CFR 95.19 establish an exception to the two-year time limit to file claims. The regulation states that the time limits in 95.7 do not apply to any claims resulting from an audit exception.

In the March, 1994 final report,, you responded to our comments that you 'recognize a significant portion of the claims may be allowable if submitted with adequate documentation.' Your recommendation was to 'withdraw the claims and resubmit them to ACF with adequate documentation' and that we would 'in no way be prejudiced by the resubmission of a new claim to ACF' if we had compiled the necessary documentation.

We continue to disagree with your assessment and assertion that the original revised claims were only based on estimates. The information used to submit those claims was the best information available at the time.

You indicated in this draft report that you reviewed the work performed on the initial audit of the retroactive claims. We were not informed that is was part of your scope in this audit, and are surprised that you were so concerned with costs that has already been withdrawn from consideration.

Since all of calendar year 1989 was a part of your initial audit, and those claims, which had previously been accepted and paid by ACF, were found to be exception items in that initial audit, the entire amount resubmitted is not subject to the two-year time limit, as stated in 45 CFR 95.19(b).

OIG Response

We found nothing in the State's response that would change our position. Essentially, the State attempted to meet the 2-year deadline by filing claims using a superficial matching procedure. The State incorrectly based their original retroactive claims on the assumption that children listed as receiving AFDC were automatically eligible for title IV-E. Receipt of AFDC was only one of several criteria required to qualify children for title IV-E.

We used the facts as presented in the prior audit as a basis for addressing the timeliness of the resubmitted claims. We indicated in our prior audit that...*Even though we did not recommend financial adjustments associated with the claims exceeding the 2-year filing period, this issue will have to be considered by ACF if the State elects to file a revised claim..* . Since this timeliness finding is an open issue from the prior audit, we believe that the exception provisions of 45 CFR 95.19 do not apply. Our statement that the State would not

be prejudiced by resubmission of a new claim to ACF has to be considered along with the other statements in the prior report. The prior report, and this report, clearly state that the claims submitted for calendar year 1989 do not meet the 2-year filing deadline and are unallowable.

In accordance with auditing standards contained in the United States General Accounting Office's *Government Auditing Standards 1994 Revision*, we did review and consider the audit work performed during our initial audit of the State's retroactive title IV-E claims. Our failure to do otherwise would have disregarded government auditing standards. For example, Sections 4.7 and 4.10 of the Field Work Standards for Financial Audits states that auditors should follow up on known material findings and recommendations from previous audits. Sections 6.12 and 6.14 of the Field Work Standards for Performance Audits also state that auditors should consider prior audit work done when performing audits.

ALLOCATION RATES

In computing the allocation rates used to claim title IV-E administrative costs, the State included counts of children whose age exceeded title IV-E criteria. As a result, title IV-E administrative costs were overclaimed by \$155,951 (FFP) for the audit period.

Under section 406(a) of the Social Security Act, a dependent child is defined as one under the age of 18. This age limit applies to title IV-E foster care eligibility under section 472 of the Act. The only exception under section 406(a) is (at State option) for those children who are over 18 and under the age of 19 and who are full-time students expected to complete their secondary schooling or equivalent training before reaching age 19. (45 CFR 233.90(b)(3))

The State used rates to allocate certain administrative costs related to the care of children to the Federal government. These rates were calculated by dividing (1) the number of title IV-E foster care eligible children who were in the care and custody of the DFS 15 days or more during the month by (2) the total population of children in the care and custody of the DFS. In computing the rates, the State included 18, 19, 20 and 21 year olds as eligible for title IV-E.

The following table shows the effect of the State's inclusion of children who were not title IV-E eligible due to age criteria in their rate calculations.

Quarter Ended	Claimed Rate Percentage	Audited Rate Percentage	Adjusted costs (FFP)
March 1989	57.8	57.7	\$ 6,468
June 1989	58.6	58.5	4,107
September 1989	58.9	58.8	4,185
December 1989	60.0	59.9	4,271
March 1990	60.5	60.3	8,624
June 1990	61.1	60.9	8,551
September 1990	60.4	60.1	12,907
December 1990	62.3	62.0	14,252
March 1991	63.2	62.8	17,763
June 1991	63.9	63.5	17,448
September 199 1	66.8	66.4	25,386
December 199 1	67.6	67.1	<u>31,989</u>
			<u>\$155,951</u>

Note: The State included children 18, 19, 20, and 21 years old in calculating their retroactive claim. Assuming that those 18 years of age were title IV-E eligible based on their school status, we have considered only those age 19 and over as impacting the overstatement of the title IV-E rates.

This problem was caused by the State's policy of automatically continuing title IV-E foster care payments to children turning 18 years of age. The State's system required action to stop a child's eligibility and foster care payments. State officials indicated that this procedure was done to prevent stopping a legitimate payment.

Recommendations

We recommend that the State:

- (1) Adjust \$136,920 (FFP) from their resubmitted claims due to overstated rates. (We reduced \$155,951 by \$19,031, because the 1989 amounts were included in the timeliness finding adjustment.)
- (2) Conduct a review to determine the effectiveness of the current system for computing allocation rates and make adjustments as necessary.

Auditee Comments

We agree that the computation to determine the rate at which to allocate certain administrative costs between Title IV-E and non-Title IV-E, should not contain ineligible

children in the numerator. If, in fact, this was the case, proper adjustments will be made. We will review the system to assure the eligibility rates are computed correctly, and make adjustments to the system as necessary.

OIG Response

We found nothing in the State's response that would change our finding or recommendations that the State included ineligible children in their computation of allocation rates used to claim certain title IV-E administrative costs. The State's response did not specifically indicate concurrence or non-concurrence with recommendation to make a financial adjustment of \$136,920 (FFP).

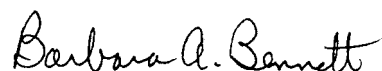
INSTRUCTIONS FOR AUDITEE RESPONSE

Final determinations as to actions to be taken on all matters reported will be made by the HHS action official identified below. We request that you respond to each of the recommendations in this report to the HHS action official, presenting any comments or additional information that you believe may have a bearing on the final determination.

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In accordance with the principles of the Freedom of Information Act (Public Law 90-23), OIG, OAS 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.)

Sincerely,



Barbara A. Bennett
Regional Inspector General
for Audit Services

Enclosure

HHS Action Official:
Ms. Linda Carson
Regional Administrator, Region VII
HHS/Administration for Children and Families
601 East 12th Street
Kansas City, Missouri 64106

RESUBMITTED RETROACTIVE TITLE IV-E CLAIMS
MISSOURI DEPARTMENT OF SOCIAL SERVICES

FOR THE QUARTERS ENDED
MARCH 31, 1989 THROUGH DECEMBER 31, 1991

Quarter Ended	Resubmitted Claims Amounts	Claims Exceeding Filing Period	Overstated Rate <u>1/</u>	Net Allowable Costs
March 1989	\$ 954,927	\$ 954,927	\$ 6,468	
June 1989	967,142	967,142	4,107	
September 1989	1,076,699	1,076,699	4,185	
December 1989	1,110,607	1,110,607	4,271	
March 1990	1,102,317		8,624	\$1,093,693
June 1990	1,196,845		8,551	1,188,294
September 1990	1,105,642		12,907	1,092,735
December 1990	1,278,619		14,252	1,264,367
March 1991	920,112		17,763	902,349
June 1991	1,051,641		17,448	1,034,193
September 1991	1,212,542		25,386	1,187,156
December 199 1	<u>259,436</u>	_____	<u>31,989</u>	<u>227,447.</u>
	<u>\$12,236,529</u>	<u>\$4,109,375</u>	<u>\$155,951</u>	<u>\$7,990,234</u>

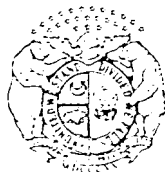
1/ Costs for our two findings overlapped during 1989. The actual adjustment for the Allocation Rates finding is \$136,920 (\$155,951 less \$6,468; \$4,107; \$4,185 and \$4,271).

DATES AND AMOUNTS OF RETROACTIVE TITLE IV-E CLAIMS
MISSOURI DEPARTMENT OF SOCIAL SERVICES

FOR THE QUARTERS ENDED
MARCH 31, 1989 THROUGH DECEMBER 31, 1991

Prior Review Retroactive Claims	Qtr. Ending March 1989	Qtr. Ending June 1989	Qtr. Ending September 1989	Qtr. Ending December 1989	Total
June 27, 1991	\$1,150,919	\$1,080,450			\$2,231,369
Sept. 25, 1991			\$1,918,530		1,918,530
Dec. 16, 1991				\$1,819,257	1,819,257
Jan. 29, 1992	<u>132,147</u>	<u>247,246</u>	<u>-388,900</u>	<u>-266,241</u>	<u>-275,748</u>
Total ^{1/}	<u>\$1,283,066</u>	<u>\$1,327,696</u>	<u>\$1,529,630</u>	<u>\$5,693,408</u>	<u> </u>
Resubmitted Claims					
Nov. 16, 1994	\$954,927	\$967,142	\$1,076,699	\$1,110,607	\$4,109,375

^{1/} Four of the initial five claims included amounts for the period January 1, 1989 through December 31, 1989. The title IV-E eligibility percentages used to claim costs on the first three revised claims were based on an incorrect assumption that if the children were listed under AFDC, they were automatically eligible for title IV-E. Based on their computer match, the State concluded that eligibility existed for a large number of cases. Consequently, the State submitted a fourth revised claim which modified the three revised claims from estimated to actual percentages and costs on a fourth revised claim submitted January 29, 1992.



MISSOURI
DEPARTMENT OF SOCIAL SERVICES

MEL CARNAHAN
GOVERNOR
GARY J. STANCLER
DIRECTOR

P.O. BOX 1527
BROADWAY STATE OFFICE BUILDING
JEFFERSON CITY
65102-1527
TELEPHONE: 314-751-4815, FAX: 314-751-3203

RELAY MISSOURI
for hearing and speech impaired
TEXT TELEPHONE
1-800-735-2966
VOICE
1-800-735-2466

November 28, 1995

Ms. Barbara A. Bennett
Regional Inspector General
for Audit Services
Department of Health & Human Services
601 East 12th Street
Room 284 A
Kansas City, MO 64106

Dear Ms. Bennett:

We have received your draft report, dated October 24, 1995, which provides the results of your audit of Retroactive Claims for Title IV-E Foster Care Program Resubmitted by the Department of Social Services. The Audit control number is CIN A-07-95-01010. Please consider the following comments to your report.

Timeliness Filing Requirement 1/

You recommend that we adjust \$4,109,375 (FFP) from the resubmitted claims because the two-year filing requirement was not met. We disagree with the finding and recommendation. You will recall that the retroactive claims were resubmitted because of the recommendation made in your final audit report dated March 8, 1994 for audit CIN A-07-92-00601. That report was issued for your audit of retroactive claims for Title IV-E Foster Care as initially submitted.

Because the claims were resubmitted as the result of an audit, federal regulations at 45 CFR 95.19 establish an exception to the two-year time limit to file claims. The regulation states that the time limits in 95.7 do not apply to any claims resulting from an audit exception.

In the March, 1994 final report, you responded to our comments that you "recognize that a significant portion of the revised claims may be allowable if submitted with adequate documentation." Your recommendation was to "withdraw the claims and resubmit them to ACF with adequate documentation" and that we would "in no way be prejudiced by the resubmission of a new claim to ACF" if we had compiled the necessary documentation.

1/ OAS Note: The recommendations related to this finding were modified in the final report-

The Administration for Children and Families (ACF) concurred with your recommendation, as indicated in their decision letter to us dated October 5, 1994. In accordance with that decision, we simultaneously withdrew the previous claim of \$17,861,646 (FFP), and resubmitted the claim, supported by adequate documentation, of \$12,236,529 (FFP). The resubmitted amount represented costs for the same period as the initial claim.

We continue to disagree with your assessment and assertion that the original revised claims were only based on estimates. The information used to submit those claims was the best information available at the time. Your report states that we did not identify eligible cases until after the 2-year filing period. This is an incorrect statement. We did have a basis for the initial retroactive claims, supported by a list of eligible cases that was reviewed by your auditors, and the claims were properly filed within the two year filing period. Although the adequacy of the documentation was questioned, it is totally incorrect to say that the initial retroactive claims were based on an estimate.

You indicated in this draft report that you reviewed the work performed on the initial audit of the retroactive claims. We were not informed that this was part of your scope in this audit, and are surprised that you were so concerned with costs that had already been withdrawn from consideration. We question why that was part of this review, especially in light of your statement that we would "in no way be prejudiced by the resubmission of a new claim." The majority of your draft report addresses the initial retroactive claims that were the subject of the previous audit. Because you dwelled on the issues of the prior audit at such great length, it appears that there is a great deal of bias on your part against the resubmitted claim. The initial claim should not have been under review since it had been withdrawn. Your review should have been to assure the adequacy of the documentation in support of the resubmitted claim of \$12,236,529. Because your report did not contain any reference that the documentation was not sufficient, one must only conclude that the claims are adequately supported.

Since all of calendar year 1989 was a part of your initial audit, and those claims, which had previously been accepted and paid by the ACF, were found to be exception items in that initial audit, the entire amount resubmitted is not subject to the two-year time limit, as stated in 45 CFR 95.19(b).

Allocation Rates

We agree that the computation to determine the rate at which to allocate certain administrative costs between Title IV-E and non-Title IV-E, should not contain ineligible children in the numerator. If, in fact, this was the case, proper adjustments will be made. We will review the system to assure the eligibility rates are computed correctly, and make adjustments to the system as necessary.

Thank you for the opportunity to respond to your draft report. If you have any additional questions, or if you would like to discuss our comments in further detail, please contact Ms. Christine A. Rackers, Director of the Division of Budget and Finance.

Sincerely,

A handwritten signature in black ink, appearing to read "Gary Stangler", with a long horizontal flourish extending to the right.

Gary Stangler
Director

cc: Linda Carson, ACF Regional Administrator