

**Memorandum**

Date **MAY 23 2002**  
From Janet Rehnquist *Janet Rehnquist*  
Inspector General

Subject Reviews of Four States' Systems and Procedures for Recovering and Refunding  
Overpayments Made Under the Aid to Families with Dependent Children  
Program (CINs: A-02-01-02000, A-07-02-03012, A-07-02-03014,  
and A-08-02-03004)

To Wade F. Horn, Ph.D.  
Assistant Secretary for Children and Families

As a part of the self-initiated audits by the Office of Inspector General, we are alerting you to the issuance within 5 business days of four final audit reports. These reports relate to the recovery of Aid to Families with Dependent Children (AFDC) overpayments by New York City and the States of Iowa, Missouri, and Utah. In total, we are recommending recovery of about \$39.8 million. Copies of the reports are attached.

The objective of these reviews was to determine whether the States properly refunded AFDC overpayment collections to the Federal Government. State agencies are required to pursue AFDC overpayments made prior to October 1, 1996 and make appropriate refunds to the Federal Government. Collections of overpayments occurring after that date are to be used to offset Temporary Assistance to Needy Families (TANF) expenditures in the year collected.

Generally, the four States had systems to identify and collect AFDC overpayments but did not refund to the Federal Government its proportionate share of those collections. Two of the States agreed to refund a total of \$35 million (New York City \$33.6 million and Utah \$1.4 million).

Iowa (\$1.6 million) and Missouri (\$3.2 million) disagreed with our recommendation. Generally, both States asserted that they acted in good faith, and cited the three ACF instructions that were issued on this matter as being conflicting.

The results of our reviews in these four States are consistent with reviews we have made or are making in other States. Within the next few months, we expect to issue reports on other States we have reviewed and will provide you those results as well.

Page 2 – Wade F. Horn, Ph.D.

Any questions or comments on any aspect of this memorandum are welcome. Please contact me or have your staff call Donald L. Dille, Assistant Inspector General for Administrations of Children, Families and Aging Audits, at (202) 619-1175.

Attachments

**Department of Health and Human Services**

**OFFICE OF  
INSPECTOR GENERAL**

**REVIEW OF THE  
AID TO FAMILIES WITH DEPENDENT  
CHILDREN OVERPAYMENT  
RECOVERIES COLLECTED BY THE  
NEW YORK CITY HUMAN RESOURCES  
ADMINISTRATION**



**JANET REHNQUIST  
INSPECTOR GENERAL**

**MAY 2002  
A-02-01-02000**



Region II  
Jacob K. Javits Federal Building  
26 Federal Plaza  
New York, NY 10278

MAY 30 2002

Our Reference Common Identification No. A-02-01-02000

Mr. Brian J. Wing  
Commissioner, Office of Temporary And Disability Assistance  
Department of Family Assistance  
40 North Pearl Street  
16<sup>th</sup> Floor  
Albany, New York 12243

Dear Mr. Wing:

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 The Aid To Families With Dependent Children Overpayment Recoveries Collected By The New York City Human Resources Administration. A copy of this report will be forwarded to the action official noted below for her review and any action deemed necessary.

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, OAS reports issued to the Department's grantees and contractors are made available 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-02-01-02000 in all correspondence relating to this report.

Sincerely yours,



Timothy J. Horgan  
Regional Inspector General  
for Audit Services

Enclosures – as stated

Direct Reply to HHS Action Official:

Mary Ann Higgins  
Northeast Hub Director  
Department of Health and Human Services  
Administration for Children & Families  
26 Federal Plaza, Room 4114  
New York, New York 10278

## EXECUTIVE SUMMARY

### *Background*

Title IV-A of the Social Security Act established the Aid to Families with Dependent Children (AFDC) program to encourage the care of dependent children of low-income families in their own homes. The Administration for Children and Families (ACF) was the Operating Division within the Department of Health and Human Services (HHS) responsible for administering the AFDC program. At the State level, the New York State Department of Family Assistance (NYS DFA) (formerly the New York State Department of Social Services), Office of Temporary and Disability Assistance (NYSOTDA) had primary responsibility and oversight of the program but delegated day-to-day responsibilities to the local districts. In New York City (NYC), the Human Resources Administration (HRA) was the local district agency responsible for daily administration of the AFDC program.

In 1996, the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) replaced the AFDC program with the Temporary Assistance to Needy Families (TANF) program. Although States had until July 1, 1997 to implement TANF, individual and family entitlement to AFDC benefits was eliminated effective October 1, 1996.

Occasionally, individuals or families received AFDC benefits to which they were not entitled. For overpayments that occurred prior to October 1, 1996, States were required to return to the Federal Government the Federal share of AFDC overpayment recoveries, regardless of the fiscal year in which the recoveries were collected.

### *Objective*

The objective of our review was to determine if NYSDFA properly returned, to the Federal Government, the Federal share of AFDC overpayment recoveries collected by HRA during the period December 1, 1996 through September 30, 2001.

### *Summary Of Findings*

Our review showed that NYSDFA did not return to the Federal Government the Federal share of AFDC overpayment recoveries collected by HRA after December 1, 1996. This occurred because, after TANF became effective, NYSDFA continued to follow AFDC procedures of reporting the overpayment recoveries on quarterly financial reports. However, this reporting did not result in a credit to the AFDC program. On September 1, 2000, ACF provided clarifying guidance that indicated, for overpayments that occurred prior to October 1, 1996, States were required to return to the Federal Government the Federal share of recoveries, regardless of the fiscal year in which the recoveries were collected. After this guidance came out, NYSDFA continued to report overpayments

utilizing quarterly financial reports because NYSDFA felt the ACF policy would have created an overly onerous administrative burden. We estimate that NYSDFA retained AFDC overpayment recoveries, totaling \$67,186,214 (Federal share \$33,593,107), which were collected by HRA during the period December 1, 1996 through September 30, 2001.

### **Recommendations**

We recommend that NYSDFA:

1. Refund \$33,593,107 to the Federal Government. This amount represents the estimated Federal share of AFDC overpayments recovered by HRA during the period December 1, 1996 through September 30, 2001.
2. Take appropriate steps to ensure that the Federal share of AFDC overpayment recoveries, collected by HRA subsequent to September 30, 2001, are returned to the Federal Government in a timely manner.

### **AUDITEE COMMENTS**

In comments dated February 12, 2002 (See Appendix B), NYSDFA officials indicated that they generally agreed with the findings in our report. However, NYSDFA raised two objections to the content of the report. First, NYSDFA felt the report did not adequately explain the State's treatment of AFDC overpayment recoveries after the implementation of TANF. The NYSDFA requested that we indicate that, prior to the issuance of policy instructions by ACF on September 1, 2000, the State accounted for overpayment recoveries in accordance with AFDC program procedures prescribed by ACF.

Second, NYSDFA requested that we remove the recommendation seeking amounts to be repaid to ACF for periods after September 30, 2001. The State officials asserted that identifying AFDC overpayment recoveries after September 30, 2001 would create an overly onerous administrative burden. The State officials further asserted that, based on the diminishing recoveries shown in our sample results, there would be limited utility in pursuing the identification of overpayment collections that are more than four years old.

### **OIG RESPONSE**

We followed up with NYSDFA officials for clarification of their response to our first recommendation. The NYSDFA officials stated that they agreed to refund \$33,593,107 to the Federal Government.

With respect to the State's treatment of AFDC overpayment recoveries, both prior and subsequent to TANF, we added clarifying language to the report.

We did not remove the second recommendation from the audit report. In planning our audit, we searched for collections of AFDC overpayments that were recovered up to September 30, 2001, which was the last day of our fieldwork. We recognized that there were additional recoveries after that date but, in the interest of reporting our findings to ACF within a reasonable time frame, we did not search for them. Moreover, while we agree AFDC recovery amounts are diminishing, ACF policy instructions (ACF-PI-2000-2) make no provision for this. The policy instructions only reiterate that States are required to pursue AFDC overpayments that occurred prior to October 1, 1996 and return the Federal share of recoveries to the Federal Government. The ACF would have to work with the State to efficiently resolve this matter.

Finally, we appreciate the assistance of NYSDFA in performing this review.



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# INTRODUCTION

## *Background*

Title IV-A of the Social Security Act established the Aid to Families with Dependent Children (AFDC) program to encourage the care of dependent children of low-income families in their own homes. The Administration for Children and Families (ACF) was the Operating Division within the Department of Health and Human Services (HHS) responsible for administering the AFDC program. At the State level, the New York State Department of Family Assistance (NYS DFA) (formerly the New York State Department of Social Services), Office of Temporary and Disability Assistance (NYSOTDA) had primary responsibility and oversight of the program but delegated day-to-day responsibilities to the local districts. In New York City (NYC), the Human Resources Administration (HRA) was the local district agency responsible for daily administration of the AFDC program.

Under the AFDC program, individuals or families that met eligibility criteria were entitled to receive assistance without regard to time limit and the Federal Government provided an open-ended matching of State expenditures. In 1996, the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) replaced the AFDC program with the Temporary Assistance to Needy Families (TANF) program. Under TANF, the open-ended matching of State expenditures was replaced by a capped block grant. Furthermore, although States had until July 1, 1997 to implement TANF, individual and family entitlement to AFDC benefits was eliminated effective October 1, 1996.

In this report we discuss the results of our review of AFDC overpayment recoveries collected by NYSDFA through HRA. In a separate report, we will discuss the results of our review of AFDC overpayment recoveries collected by NYSDFA through selected upstate districts.

## *Objectives, Scope And Methodology*

The objective of our review was to determine if NYSDFA properly returned, to the Federal Government, the Federal share of AFDC overpayment recoveries collected by HRA during the period December 1, 1996 through September 30, 2001.

To accomplish our objective we:

- ✓ Reviewed Federal and State laws, regulations, policies and procedures pertaining to both AFDC and TANF;
- ✓ Met with representatives of HRA to obtain an understanding of the process for recovering AFDC overpayments;

- ✓ Met with representatives of NYSDFA to obtain an understanding of the process for returning the Federal share of AFDC overpayment recoveries to the Federal Government;
- ✓ As part of our survey, we obtained quarterly expenditure reports and supporting books and records to verify that NYSDFA reported overpayment recoveries collected through November 30, 1996 as a reduction against future FFP. Therefore our audit period was December 1, 1996 to September 30, 2001;
- ✓ Obtained a database, containing the universe of all NYC overpayments that occurred prior to October 1, 1996, from NYSDFA officials. We limited the scope of our review to overpayments that occurred prior to October 1, 1996 because, according to Section 116 of PRWORA, the entitlement to AFDC benefits ended on that date. Overpayments occurring after that date would be considered TANF overpayments, regardless of the date the State implemented TANF. The universe was extracted from the Welfare Management System (WMS), which is the database utilized by HRA to maintain eligibility and benefit payment information for all public assistance recipients. The universe consisted of 554,130 overpayments for which HRA collected at least a partial recovery. However, this universe included overpayment recoveries from programs other than AFDC as well as overpayment recoveries, which had already been returned to the Federal Government. We refined the universe so that it only included 244,179 AFDC overpayments that occurred during the period January 1, 1990 to September 30, 1996. The universe contained the case number, balance owed, and total recovery to date;
- ✓ Reviewed a randomly selected probe sample of 30 overpayment recoveries. This review provided us with reasonable assurance that the data in the refined universe was complete and accurate;
- ✓ Used stratified random sampling techniques to select a sample of 305 overpayment recoveries totaling \$923,238. For each of the sample items, we calculated the Federal share of recoveries collected during the period December 1, 1996 to September 30, 2001. We used the lower limit at the 90 percent confidence interval to estimate the Federal share of overpayment recoveries to be returned to the Federal Government. Appendix A contains the details of our sampling methodology.

Our review was performed in accordance with generally accepted government auditing standards. We did not perform an in-depth review of the internal control structure of NYSDFA or HRA; however, we reviewed controls established by NYSDFA and HRA over the recovery and reporting of AFDC overpayments. Our fieldwork was performed during the period January 1, 2001 to September 30, 2001.

## FINDINGS AND RECOMMENDATIONS

Our review showed that NYSDFA did not return to the Federal Government the Federal share of AFDC overpayment recoveries collected by HRA after December 1, 1996. We estimate that NYSDFA retained AFDC overpayment recoveries, totaling \$67,186,214 (Federal share \$33,593,107), which were collected by HRA during the period December 1, 1996 through September 30, 2001.

Regulations at 45 CFR 233.20 required States to pursue recovery efforts until the full amount of the overpayment was collected. In addition, on September 1, 2000, ACF issued policy instructions (ACF-PI-2000-2) clarifying the proper treatment of AFDC overpayment recoveries. For overpayments that occurred after October 1, 1996, States were allowed to retain the Federal share of recoveries for use under the TANF program. For overpayments that occurred prior to October 1, 1996, States were required to return to the Federal Government the Federal share of recoveries, regardless of the fiscal year in which the recoveries were collected.

The HRA was the local district agency in NYC responsible for determining eligibility and calculating monthly assistance under the AFDC program. In addition, HRA was responsible for maintaining eligibility and benefit payment information for all public assistance recipients on the WMS. Occasionally, individuals or families received AFDC benefits to which they were not entitled. These overpayments could have been caused by clerical errors within HRA or by recipients providing misinformation. For overpayments associated with cases where the recipient was still receiving financial assistance, HRA reduced future monthly benefits until the amount owed was recovered. This process was called recoupment. For overpayments associated with cases where the recipient was no longer receiving financial assistance, HRA attempted to contact the recipient and obtain a cash recovery.

When an overpayment was identified, HRA established an overpayment file on the WMS. This file contained the case number, type of overpayment and balance owed. Recoveries, in the form of recoupments and cash collections, were also posted to the overpayment file. The HRA reported AFDC overpayment recoveries to NYSDFA on a monthly basis. The NYSDFA was responsible for returning to the Federal Government the Federal share of HRA's AFDC overpayment recoveries.

Prior to the implementation of TANF, the mechanism by which NYSDFA returned to the Federal Government the Federal share of AFDC overpayment recoveries was to report them on the ACF-231 quarterly expenditure report as a reduction against future Federal financial participation (FFP) in the AFDC program. During the survey phase of our

review, we verified that NYSDFA returned HRA overpayment recoveries collected for October and November 1996 via the ACF-231 quarterly expenditure report.

When New York implemented its TANF program on December 2, 1996, the ACF-231 was eliminated. Therefore, NYSDFA reported HRA overpayment recoveries on the ACF-196 quarterly financial report. Since this form was only intended to detail how funds were spent under TANF, the Federal share of HRA overpayment recoveries collected during the period December 1, 1996 to September 30, 2001 was not properly returned to the Federal Government. According to NYSDFA officials, since clear ACF policy instructions did not come out until September 1, 2000, they followed ACF program procedures by applying recoveries to the current TANF period benefit payments. Subsequent to September 1, 2000, they indicated that they continued to use the same AFDC program procedures because, in their opinion, complying with ACF issued policy instructions would have created an overly onerous administrative burden.

Based upon our review, we determined that NYSDFA did not return to the Federal Government the Federal share of AFDC overpayment recoveries collected by HRA after December 1, 1996. To identify the Federal share of AFDC overpayment recoveries collected by HRA, we worked with NYSDFA officials to design a programming application of the overpayment files established on WMS.

The programming application created a universe of 554,130 overpayments for which HRA collected at least a partial recovery. However, this universe included overpayment recoveries from programs other than AFDC as well as overpayment recoveries, which had already been returned to the Federal Government. We refined the universe so that it only included 244,179 AFDC overpayments, which occurred during the period January 1, 1990 to September 30, 1996.

We used stratified random sampling techniques to select a sample of 305 overpayment recoveries totaling \$923,238. For each of the sample items, we calculated the Federal share of recoveries collected during the period December 1, 1996 to September 30, 2001. We found that the Federal share of overpayments recovered during this period for the 305 sample overpayments was \$291,752. See Appendix A for detailed sample results.

We estimate that NYSDFA retained AFDC overpayment recoveries, totaling between \$67,186,214 (Federal share \$33,593,107) and \$80,348,358 (Federal share \$40,174,179), which were collected by HRA during the period December 1, 1996 through September 30, 2001. The midpoint of the confidence interval amounted to \$73,767,286 (Federal share \$36,883,643). The range shown has a 90 percent level of confidence with a sampling precision as a percentage of the midpoint of 8.92 percent.

## ***Recommendations***

We recommend that NYSDFA:

1. Refund \$33,593,107 to the Federal Government. This amount represents the estimated Federal share of AFDC overpayments recovered by HRA during the period December 1, 1996 through September 30, 2001.
2. Take appropriate steps to ensure that the Federal share of AFDC overpayment recoveries, collected by HRA subsequent to September 30, 2001, are returned to the Federal Government in a timely manner.

## **AUDITEE COMMENTS**

In comments dated February 12, 2002 (See Appendix B), NYSDFA officials indicated that they generally agreed with the findings in our report. However, NYSDFA raised two objections to the content of the report. First, NYSDFA felt the report did not adequately explain the State's treatment of AFDC overpayment recoveries after the implementation of TANF. The NYSDFA requested that we indicate that, prior to the issuance of policy instructions by ACF on September 1, 2000, the State accounted for overpayment recoveries in accordance with AFDC program procedures prescribed by ACF.

Second, NYSDFA requested that we remove the recommendation seeking amounts to be repaid to ACF for periods after September 30, 2001. The State officials asserted that identifying AFDC overpayment recoveries after September 30, 2001 would create an overly onerous administrative burden. The State officials further asserted that, based on the diminishing recoveries shown in our sample results, there would be limited utility in pursuing the identification of overpayment collections that are more than four years old.

## **OIG RESPONSE**

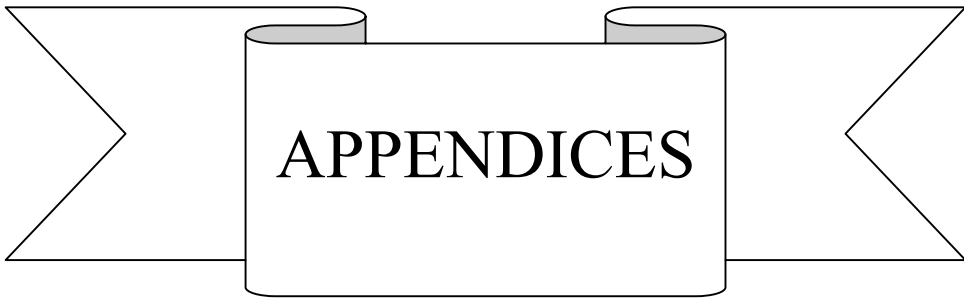
We followed up with NYSDFA officials for clarification of their response to our first recommendation. The NYSDFA officials stated that they agreed to refund \$33,593,107 to the Federal Government.

With respect to the State's treatment of AFDC overpayment recoveries, both prior and subsequent to TANF, we added clarifying language to the report.

We did not remove the second recommendation from the audit report. In planning our audit, we searched for collections of AFDC overpayments that were recovered up to September 30, 2001, which was the last day of our fieldwork. We recognized that there were additional recoveries after that date but, in the interest of reporting our findings to ACF within a reasonable time frame, we did not search for them. Moreover, while we agree AFDC recovery amounts are diminishing, ACF policy instructions

(ACF-PI-2000-2) make no provision for this. The policy instructions only reiterate that States are required to pursue AFDC overpayments that occurred prior to October 1, 1996 and return the Federal share of recoveries to the Federal Government. The ACF would have to work with the State to efficiently resolve this matter.

Finally, we appreciate the assistance of NYSDFA in performing this review.



**APPENDICES**



**STATISTICAL SAMPLING INFORMATION**

Stratified Random Sample

Stratum Number	Stratum Range	Population (# Of Recoveries)	Population (Total Dollar Recoveries)	Sample Size (# Of Recoveries)	Sample Size (Total Dollar Recoveries)	Sample Errors (# Of Recoveries)	Sample Errors (Federal Share Dollars)
1	\$.01 to \$499.99	163,030	\$29,141,663	80	\$13,470	57	\$4,014
2	\$500 to \$1,599.99	59,698	\$54,558,764	80	\$71,457	64	\$18,630
3	\$1,600 to \$7,499.99	21,386	\$51,782,739	80	\$198,784	75	\$54,569
4	\$7,500 and greater	65	\$639,527	65	\$639,527	64	\$214,539
Total	-	244,179	\$136,122,693	305	\$923,238	260	\$291,752

Projection of Sample Results  
(Precision At The 90 Percent Confidence Level)

Upper Limit           \$40,174,179  
 Point Estimate       \$36,883,643  
 Lower Limit           \$33,593,107



George E. Pataki  
Governor

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Brian J. Wing  
Commissioner

HHS/OIG  
OFFICE OF AUDIT  
NEW YORK REGIONAL OFFICE

FEB 1 2002

February 12, 2002

RECEIVED

RE: Common ID Number A-02-01-02000

Dear Mr. Horgan:

This is in response to your letter of December 14, 2001, and draft report entitled, "Review of the Aid to Families with Dependence Children Overpayments Recoveries Collected by the New York City Human Resources Administration". While we generally agree with the report's findings, it does not adequately explain the State's application of recoupments and recoveries to the period when TANF assistance was granted. The report seems to imply that the State was negligent in its treatment of reported AFDC refunds and recoupments. This was not the case. We also object to the second recommendation seeking amounts to be repaid to the Administration for Children and Families (ACF) for periods after September 30, 2001. We ask that the recommendation be removed. A more thorough description of these objections follows.

First, there was no explanation of why OTDA staff did not refund AFDC period recoveries during the TANF period. We explained to your auditors and they verified that we claimed TANF amounts net of any recoupments. That accounting method was the primary reason for the "underclaiming of AFDC recoveries". In effect, AFDC recoupments were applied against the period TANF assistance was granted. This approach resulted in both an understatement of the AFDC refund and the TANF assistance amounts. ACF's request for New York State to change its accounting method to capture the AFDC period recoveries, creates a unique repayment situation where TANF reported amounts are also increased.

In addition, your report should mention that New York State's claiming procedure was consistent with the prescribed claiming process during the AFDC grant period and was only changed on September 1, 2000 as a result of ACF's policy instruction TANF-ACF-PI-002. That Policy Instruction rescinded two other related inconsistent Policy Instructions [TANF-ACF-PI-99-2 and TANF-ACF-PI-99-2 (Revised)], previously issued on March 9, 1999 and May 1, 2000, respectively, well after the December 1996 TANF implementation by New York State. Therefore, we request that the "Background" section of the report state that New York State followed ACF claiming procedures through September 1, 2000 by applying recoupments to the current TANF period benefit payments, thereby understating the amount of TANF funds spent. Net grant amounts were reported on federal TANF expenditure reports.

We also object to the second recommendation that we "take appropriate steps to ensure that the Federal share of AFDC overpayment recoveries, collected by HRA subsequent to September 30, 2001, are returned to the Federal Government in a timely manner." We are asking that this recommendation be removed from the report. As we explained to your staff, identifying AFDC amounts recouped after September 30, 2001, will create an overly onerous administrative burden. Currently, our systems are not geared toward reporting recoupment and recovery amounts of AFDC (Pre-TANF) in the manner necessary for AFDC credit determination. Given that the AFDC recovery amounts are diminishing, it is likely any benefit gained from changing the system(s) to properly record such information, would be less than the cost involved.

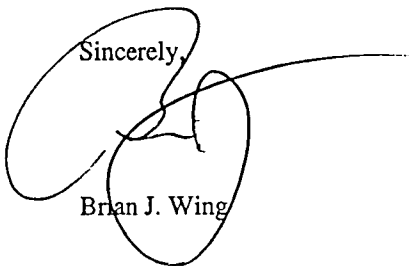
*"providing temporary assistance for permanent change"*

-2-

During their review, and in the interest of expediency and efficiency, the OIG auditors informed us that only AFDC recoupment amounts identified prior to October 2001 would be targeted. It was apparent that OIG limited the scope of their review in recognition that extending the search period was not worthwhile. We concurred with this approach and it was with this understanding that we formed a partnership with your office and provided OTDA resources to assist in this review. There is at best only limited utility in pursuing the identification of collections of overpayments that are more than four years old. Our analysis of the OIG sample supports this position. The sample shows that only 6.56 percent (20 of 305) of sampled cases had a collection in October 2001 or one month after the audit period termination date. (And even this collection rate is overstated as OIG's sample was stratified to maximize the identification of collections.) As we move further away from the close of the AFDC program there will be further diminishing returns for finding collections. Literal compliance with OIG's recommendation would mean that New York State would have to incur an unnecessary burden for the unforeseeable future to look for fewer and fewer AFDC refunds. This is not good government. The OIG recognized this in its audit plans and it now should recognize it in its audit report.

Thank you for the opportunity to comment.

Sincerely,



Brian J. Wing

Mr. Timothy J. Horgan  
Regional Inspector General for Audit Services  
Office of Audit Services  
DHHS, Region II  
Jacob K. Javits Federal Building  
New York, NY 10278

cc: Jack J. Madigan

**Department of Health and Human Services**

**OFFICE OF  
INSPECTOR GENERAL**

**REVIEW OF OVERPAYMENT  
COLLECTIONS MADE FOR AID TO  
FAMILIES TO DEPENDENT  
CHILDREN PROGRAM BY THE  
STATE OF IOWA'S DEPARTMENT OF  
HUMAN SERVICES**



**JANET REHNQUIST  
Inspector General**

**MAY 2002  
A-07-02-03012**



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

CIN: A-07-02-03012

MAY 30 2002

Jessie K. Rasmussen  
Director, Department of Human Services  
State of Iowa  
Hoover State Office Building  
1305 E. Walnut Street  
Des Moines, Iowa 50319-0114

Dear Ms. Rasmussen:

This report provides you with the results of our review of Overpayment Collections made for the former Aid to Families with Dependent Children (AFDC) Program by the State of Iowa. AFDC program administration for the State was provided by the Department of Human Services (DHS). The objective of our review was to determine whether the DHS has continued to properly identify, collect, and remit the Federal share of AFDC overpayment collections to the Federal government after the program was repealed.

During the period October 1, 1996 through June 30, 2001 the DHS collected the Federal share of AFDC overpayments totaling \$2,446,314. Of that amount, \$1,616,368 was applied to another program, and \$704,350 was returned to the U.S. Department of Health and Human Services, Administration for Children and Families (ACF). An additional \$125,596, collected between April and June 2000, was remitted in January 2002 as a result of our review.

Therefore, we are recommending the DHS remit \$1,616,368 to the ACF representing the Federal share of AFDC overpayments collected, but not remitted, during the period October 1, 1996 to June 30, 2001. We also recommend the DHS comply with TANF program instruction requirements to identify and remit the Federal share of all subsequent collections on a quarterly basis. The DHS disagreed with our findings and recommendations. The DHS response is included in its entirety as Appendix C.

## INTRODUCTION

### BACKGROUND

The AFDC program was a Federal and State funded income maintenance program. It was administered by the State on behalf of needy families with dependent children. Beginning in 1996, States were eligible to participate in a new program entitled

Temporary Assistance for Needy Families (TANF). This new program was implemented by the State of Iowa on January 1, 1997.

Under the former AFDC program, an individual recipient might, on occasion, receive a monthly Maintenance Assistance Payment in excess of the amount to which he or she was entitled. The State Agency responsible for administering the AFDC program was then obligated to recover the overpayment from the recipient by means of a reduction in future payments to the recipient or by collecting a cash settlement.

Federal regulations at 45 CFR 233.20 require States to continue efforts until the full amount of overpayment has been recovered. Although the AFDC program was repealed and replaced with TANF, the requirement to recover AFDC overpayments remained in effect.

The ACF issued a Program Instruction (PI), Transmittal Number: TANF-ACF-PI-2000-2 dated September 1, 2000. This PI stated that:

*For recoveries of former AFDC program overpayments made before October 1, 1996, States are required to repay to the Federal government the Federal share of these recoveries. These rules apply regardless of the fiscal year in which the recoveries are collected and received by the State. The Federal share of these recovered overpayments must be calculated by multiplying the total amount recovered by the Federal Medicaid Assistance Percentage (FMAP) rate in effect for the State during fiscal year 1996. States should not use the FMAP rate in effect during the year in which the overpayment occurred or the FMAP rate in effect during the year in which the recovery is made.*

### **OBJECTIVE, SCOPE AND METHODOLOGY**

Our review was conducted in accordance with generally accepted government auditing standards, except our review objectives did not require evaluation of the internal control structure. The objective of our review was to determine whether the State of Iowa has continued to properly identify, collect, and remit the Federal share of AFDC overpayment collections to the Federal government after the program was repealed. We examined supporting documentation for AFDC overpayments collected by the State of Iowa from October 1, 1996 through June 30, 2001.

To achieve our objective, we reviewed applicable sections of TANF program instructions issued by the ACF and Federal regulations at 45 CFR 233.20. We researched the Cash Management Improvement Act - 31 CFR 205 to determine Federal requirements regarding interest on collections that were not remitted on a timely basis.

We examined the Form ACF-231 for the period October 1 through December 31, 1996 prepared by the State of Iowa. We considered other information provided to us, such as a document entitled “Correction 12-19-01 Breakdown of AFCD Overpayment Recoveries

(Iowa)”. A schedule of collections and remittances for the period October 1, 1996 through June 30, 2001 is attached as Appendix A.

Our fieldwork was performed at the offices of the DHS in Des Moines, Iowa during September 2001.

### **FINDINGS AND RECOMMENDATIONS**

During the period October 1, 1996 through June 30, 2001, the DHS collected \$2,446,314 representing the Federal share of AFDC overpayment collections. Of that amount, \$1,616,368 was applied to another program and \$704,350 was returned to the ACF. An additional \$125,596, collected between April and June 2000, was remitted in January 2002 as a result of our review.

Therefore, we are recommending the DHS remit \$1,616,368 to the ACF representing the Federal share of AFDC overpayments collected, but not remitted, during the period October 1, 1996 to June 30, 2001. We also recommend the DHS comply with TANF program instruction requirements to identify and remit the Federal share of all subsequent collections on a quarterly basis.

### **OVERPAYMENT COLLECTIONS NOT REMITTED**

The DHS did not remit \$1,616,368 for the Federal share of AFDC overpayments collected for the period October 1, 1996 to June 30, 2001. An additional remittance for \$125,596 was made on January 7, 2002 for the Federal share of AFDC overpayment collections made during the period April 1, 2000 through June 30, 2000. This was more than eighteen months after the quarter ended.

The Federal share of AFDC overpayment collections (\$1,616,368) made by the DHS between December 1, 1996 and September 30, 1999 has not been remitted to the ACF as required.

The ACF issued a Program Instruction (PI) TANF-ACF-PI-99-2 dated March 9, 1999, that states:

*Although the AFDC Program was repealed and replaced with the TANF Program, a number of AFDC overpayments remain outstanding, and the requirement to pursue and recover the remaining uncollected AFDC overpayments remains in place.*

*In any quarter in which one or more of these overpayments are recovered, the Federal share must be returned to this agency with a check made payable to the U.S. Department of Health and Human Services....*

The ACF issued another PI, TANF-ACF-PI-2000-2 on September 1, 2000. In this PI, the ACF further refined and reiterated requirements regarding payment of the Federal share:

*States that have been diligent in tracking AFDC overpayment recoveries but have not returned all or any of the Federal share of such amounts recovered to ACF should remit the Federal share of the total accumulated amounts to ACF via check no later than October 31, 2000.*

*Once States have become current with ACF with regard to past due remittances, checks should be submitted to ACF no less frequently than quarterly.*

### **Recommendations**

We are recommending the DHS remit \$1,616,368 to the ACF representing the Federal share of AFDC overpayments collected, but not remitted for the period October 1, 1996 to June 30, 2001. We also recommend the DHS comply with TANF program instruction requirements to identify and remit the Federal share of all subsequent collections on a quarterly basis.

### **Auditee Response**

The DHS disagreed with our findings and recommendations. The DHS response is summarized below, and included in its entirety as Appendix C.

First, the DHS asserts that benefit reductions made during the first quarter of 1997 were properly reported on the ACF-231 form and that amount should not be included in our findings.

Second, the State's Family Investment Program (FIP) provided cash assistance to needy families on behalf of both the former AFDC program and the new TANF program. Collections of overpayments under both AFDC and TANF not otherwise remitted to HHS were applied to FIP, rather than to "another program".

Third, the DHS asserts that it effectively continued the same practices and procedures it had followed under the old AFDC program, and that approach was reasonable due to a lack of guidance by the ACF until March 9, 1999. Therefore, it was reasonable for the DHS to accumulate cash collections in a separate account from January 1, 1997 through June 30, 1998 and then transfer that amount to the TANF program.

Fourth, the DHS contends that TANF-ACF-PI-99-2 was in effect only for recoveries made between March 9, 1996 and April 30, 2000 and that TANF-ACF-PI-99-2 (revised) was in effect from May 1, 2000 through August 31, 2000 because TANF-ACF-PI-2000-2 did not have any retroactive application. Therefore, a payment made in January 2002 totaling \$125,596 should be returned to the DHS because it was for recoveries made between May 1, 2000 and August 31, 2000 when TANF-ACF-PI-99-2 (revised) was applicable.



Fifth, the DHS claims that according to TANF-ACF-PI-2000-2, AFDC overpayment collections made between October 1, 1996 and August 21, 1998 “*could be accounted for through negative AFDC program grant awards..., by direct payment to HHS by check, or some combination of the two methods.*”

### **OIG Comments**

We concur with DHS that benefit reductions reported on the ACF-231 for the first quarter of 1997 should not be included in our findings. Since the DHS did not implement the TANF program until January 1997, benefit reductions for that period were properly applied to the AFDC program. As a result, we have adjusted our findings by \$51,967.

We do not concur with the remainder of the DHS comments. The AFDC and TANF programs are different both statutorily and administratively. Funding for the two programs was provided utilizing different rates and those rates were based on different criteria. All overpayments made prior to October 1, 1996, but collected after that date, are required to use the 1996 FMAP rate in determining the Federal share of overpayment collections.

The DHS asserts that it should be held harmless for recoveries made prior to March 1999 because their treatment of those collections was reasonable since no guidance was issued prior to that date. The DHS also contends that it “was continuing the same practices and procedures allowed under the old AFDC program.” Records provided by the DHS indicate otherwise. First, instead of continuing to make quarterly payments for AFDC cash collections, they abruptly stopped making them when the TANF program was implemented on January 1, 1997. Second, they began accumulating these funds in a separate fund that was ultimately used to supplement the TANF block grant. Additionally, AFDC overpayment collections made in the form of benefit reductions were also applied to TANF. Those practices were not allowed under the old AFDC program.

Additionally, TANF-ACF-PI-99-2 dated March 9, 1999 clearly instructed the DHS to remit the Federal share of overpayment collections for payments made on or before September 30, 1996. The Federal share was to be calculated using the 1996 FMAP rate and remitted by check on a quarterly basis. The DHS took no action in response to this PI. Instead, they continued to apply all AFDC overpayment collections to the TANF program.

The DHS admits that it should have made payments for collections made between March 9, 1999 and September 30, 1999. For payments collected prior to March 9, they claim the instructions did not imply a retroactive date and that it was reasonable to assume the PI only covered payments collected after March 9. That instruction clearly indicated that AFDC overpayment collections for payments made on or before

September 30, 1996 “must” be returned to the agency. This applied to both cash collections and benefit reductions. Specific language regarding effective dates or retroactive treatment was not necessary.

The DHS contends that it should be held harmless for collections made between May 1, 2000 and August 31, 2000 because TANF–ACF-PI-99-2 (revised) was in effect and they complied with those instructions. That revision and the original PI were both rescinded and replaced by TANF-ACF-PI-2000-2 dated September 1, 2000. This PI required the DHS to take the following action:

*States that have been diligent in tracking AFDC overpayment recoveries but have not returned all or any of the Federal share of such amounts recovered to ACF should remit the Federal share of the total accumulated amounts to ACF via check no later than October 31, 2000.*

Again, these instructions were ignored. The DHS contends that this PI had no “retroactive application” since there was a statement that:

*Recoveries made prior to the date of this transmittal will be evaluated on reasonable interpretation of statutory requirements or any previous guidance provided by ACF.*

This PI clearly was retroactive because it rescinded and replaced the prior instructions. In addition, the PI requires the above action “...to ensure that the Federal share of all AFDC overpayment recoveries has been or is returned to ACF.”

It is important to note that the DHS bases its argument on technical interpretations of the program instructions, yet their history shows no evidence of any intention to fully comply with any them. Furthermore, they rely on one PI that, were it not rescinded, was effective for only four months of the nearly five years the DHS has withheld payment. That PI was the only instruction of the three that did not require immediate repayment of the overpayment collections made by the DHS.

The DHS further asserts that their late payment (January 7, 2002) for the second quarter FY 2000 collections totaling \$125,596, should be returned since it followed the directions of TANF –ACF-PI-99-2 (revised) that was in effect at the time of the collections. Again, that PI was rescinded and they were instructed to return all overpayments collected by TANF-ACF-PI-2000-2.

The DHS asserts that TANF-ACF-PI-2000-2 provides that AFDC overpayment collections “could be accounted for through negative AFDC program grant awards..., by direct payment to HHS by check, or some combination of the two methods.” We can only surmise that the DHS is suggesting that negative grant awards are equivalent to applying benefit reductions to TANF. Regardless of the wording, that statement has no bearing on how the DHS has remitted payment to the ACF. No evidence was provided by DHS with regard to negative AFDC grant awards. Furthermore, the statement was

made in the PI as an example of how some States “may” have attempted repayment, not as a statement of what was allowable.

Therefore, the DHS should remit a total of \$1,616,368 representing the outstanding balance of the Federal share of AFDC overpayments collected. That amount is net of the adjustment for benefit reductions collected between October and December 1997 as discussed above.

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### 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 the recommendations in this report within 30 days to the HHS action official, presenting any comments or additional information that you believe may have a bearing on final determination.

In accordance with the principles of the Freedom of Information Act, 5 U.S.C. 552, as amended by Public Law 104-231, Office of Inspector General, Office of Audit Services reports are made available to the public to the extent information contained therein is not subject to exemptions in the Act. (See 45 CFR Part 5). As such, within ten business days after the final report is issued, it will be posted on the world wide web at <http://oig.hhs.gov/>.

Sincerely,



James P. Aasmundstad  
Regional Inspector General  
for Audit Services

Enclosures

HHS Action Official:  
Ms. Linda Lewis  
Regional Administrator, Region VII  
601 East 12<sup>th</sup> Street, Room 276  
Kansas City, Missouri 64106

Appendix A

**Schedule of Collections and Remittances  
Federal Share of AFDC Overpayments  
State of Iowa  
Des Moines, Iowa  
For the Period October 1, 1996 through June 30, 2001**

<u>Quarter</u>	<u>Amount Collected</u>	<u>Amount Remitted</u>	<u>Date Remitted</u>	<u>Amount Not Remitted</u>
<u>FFY 97</u>				
Oct – Dec	\$ 123,217	\$ 123,217	1/30/97	
Jan – Mar	168,678			168,678
Apr – Jun	239,802			239,802
Jul – Sep	131,895			131,895
<u>FFY 98</u>				
Oct – Dec	101,781			101,781
Jan – Mar	176,721			176,721
Apr – Jun	189,495			189,495
Jul – Sep	124,869			124,869
<u>FFY 99</u>				
Oct – Dec	90,406			90,406
Jan – Mar	183,935			183,935
Apr – Jun	125,137			125,137
Jul – Sep	83,649			83,649
<u>FFY 00</u>				
Oct – Dec	78,696	78,696	3/29/00	
Jan – Mar	132,331 <sup>2</sup>	132,331	5/03/00	
Apr – Jun	125,596	125,596	1/07/02	
Jul – Sep	70,171 <sup>3</sup>	70,171	11/6/00	
<u>FFY 01</u>				
Oct – Dec	64,745	64,745	1/4/01	
Jan – Mar	139,584	139,584	4/18/01	
Apr – Jun	95,606	95,606	7/17/01	
Totals	\$2,446,314	\$829,946		\$1,616,368

<sup>1</sup> Date shown on the form – not necessarily the actual date submitted.

<sup>2</sup> The amount collected was rounded up by \$1 in order to match the amount remitted.

<sup>3</sup> The amount collected was rounded down by \$1 in order to match the amount remitted.



THOMAS J. VILSACK, GOVERNOR  
SALLY J. PEDERSON, LT. GOVERNOR

DEPARTMENT OF HUMAN SERVICES  
JESSIE K. RASMUSSEN, DIRECTOR

March 21, 2002

Gregory Tambke, Audit Manager  
HHS/OIG/OAS  
2425 Hyde Park Road  
Jefferson City, MO 65109

RE: REVIEW OF AFDC OVERPAYMENT COLLECTIONS BY THE STATE OF IOWA  
AUDIT REPORT CIN: A-07-02-03012

Dear Mr. Tambke:

This is in response to a draft report dated February 8, 2002 in which the Office of Inspector General (OIG) found that the Iowa Department of Human Services (DHS) failed to comply with program requirements concerning overpayment collections made under the Aid to Families with Dependent Children (AFDC) program during the period of October 1, 1996 through June 30, 2001. DHS was the state agency responsible for administering the state's AFDC program and is responsible for administering the state's Temporary Assistance for Needy Families (TANF) block grant.

The OIG found that during the time period in question, the state had collected the federal share of AFDC overpayments totaling \$2,446,314 and remitted payments to the U.S. Department of Health and Human Services (HHS) totaling \$652,383 during this time, with an additional \$125,596 paid to HHS in January 2002 for recoveries made between April and June 2000, leaving a balance of \$1,668,335 which the report indicates was "applied to another program." The report recommends that DHS submit a payment in this amount to HHS.

Iowa's cash assistance program under both AFDC and TANF is the Family Investment Program (FIP); all collections of overpayments under both AFDC and TANF not otherwise remitted to HHS were applied to FIP, rather than to "another program." DHS believes that it acted in good faith and we request that any amount of repayment be recalculated based on the following:

1. From October 1, 1996, the effective date of provisions of the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) replacing the AFDC program with the TANF block grant, until March 9, 1999, when TANF-ACF-PI-99-2 provided directions on the treatment of AFDC overpayments made both before and after PROWRA's effective date, states were provided no guidance from HHS with respect to the treatment of AFDC overpayment collections.
2. HHS issued three different Program Instructions concerning AFDC overpayment collections during the time period in question, each with different and conflicting directions to states.

- TANF-ACF-PI-99-2 dated March 9, 1999 required that states submit to HHS by check, the federal share of recoveries made for overpayments that occurred before October 1, 1996 and retain and use for TANF program costs, the federal share of recoveries made for overpayments that occurred on or after October 1, 1996.
- TANF-ACF-PI-99-2 (Revised) dated May 1, 2000, which the OIG report fails to address, provided that with respect to AFDC overpayment recoveries made after September 30, 1996, and effective with the date of the transmittal, states were to retain and use the full amount of the recoveries, including the federal share, for TANF program costs. Recoveries made prior to the date of the transmittal were to be "evaluated based on reasonable interpretation of statutory requirements or any previous guidance provided by ACF."
- TANF-ACF-PI-2000-2 dated September 1, 2000 applies to AFDC overpayment recoveries made after September 30, 1996 and requires that states return the federal share of recoveries for AFDC overpayments occurring before October 1, 1996 to HHS. While this PI rescinded and replaced the two previous PI's, it also specified that "Recoveries made prior to the date of this transmittal will be evaluated on reasonable interpretation of statutory requirements or any previous guidance provided by ACF." Consequently, it is DHS's position that TANF-ACF-PI-99-2 dated March 9, 1999 was in effect with regard to any AFDC recoveries made from March 9, 1996 through April 30, 2000 with respect to AFDC overpayments that occurred before October 1, 1996, and that TANF-ACF-PI-99-2 (Revised) dated May 1, 2000 was in effect with regard to any AFDC recoveries made from May 1, 2000 through August 31, 2000 with respect to AFDC overpayments that occurred before October 1, 1996.

This PI (TANF-ACF-PI-2000-2) also provides that for the time period between October 1, 1996 and August 21, 1998, the federal share of recoveries for AFDC overpayments made before October 1, 1996 could be accounted for through negative AFDC program grant awards based on information reported on ACF-231 Quarterly Expenditure Reports, by direct payment to HHS by check, or some combination of the two methods. After August 21, 1998, repayment of the federal share was to be made by check to HHS.

3. DHS has historically utilized two methods for recovering AFDC overpayments, reducing current AFDC/TANF assistance payments and direct cash repayments. Under AFDC, both overpayments and reductions of assistance payments were identified quarterly on form SSA-4972, which accompanied form ACF-231, Quarterly Report of Expenditures and Estimates. The assistance reduction amount for the quarter was reflected on the ACF-231 by reducing the amount entered on line 1, Total Expenditures Eligible for Federal Financial Participation, a corresponding amount. DHS followed these procedures in completing the ACF-231 and accompanying SSA-4792 for the October-December quarter of 1996. As the amount reported on line 1 of the ACF-231 for the first quarter of FFY 97 was already reduced by the amount of overpayment recoveries received through reductions of assistance, there should be no claim for additional payment from this quarter as indicated in the report.

4. Absent guidance from HHS regarding the treatment of AFDC or TANF overpayment recoveries after the effective date of the TANF provisions of PRWORA and its implementation in Iowa on January 1, 1997, DHS established a separate account within its accounting system to hold the federal share of overpayment recoveries from cash payments received from January 1, 1997 through June 30, 1998. Recoveries through assistance reduction during this time period did not constitute the receipt of actual cash, but rather a reduction in cash assistance expenditures which in turn required the state to draw down less of its TANF award for that year, resulting in a TANF surplus retained by HHS.

The growing amount of funds in this "liability account", coupled with the continued lack of guidance from HHS, finally led DHS to take steps to use the funds in July 1998. At that time, DHS transferred the federal share of the overpayment recoveries in the liability account, based on the ratio of federal to state expenditures for the time period of January 1, 1997 through June 30, 1998, to an active account used for the state's TANF cash assistance program, the Family Investment Program (FIP). The use of these funds required the state to draw down less of its TANF award for that year to the same extent, again leading to a TANF surplus retained by HHS. Please note that FIP was also Iowa's cash assistance program under AFDC, therefore the funds were applied to the same program under both AFDC and TANF.

In effect, DHS was continuing the same practice and procedures allowed under the old AFDC program by which federal funds drawn down for a quarter were reduced by the amount of the federal share of any overpayment recoveries, whether in cash or through assistance reductions. DHS believes this was a reasonable approach in the absence of any directions from HHS to the contrary. DHS contends that absent any direction or guidance from HHS during the time period of October 1996 until March 9, 1999 regarding the treatment of overpayment recoveries of AFDC overpayments made before October 1, 1996, and given that any federal share of such recoveries was applied to the state's TANF cash assistance program, the state should be held harmless from liability during this period.

5. DHS acknowledges that with the issuance of TANF-ACF-PI-99-2 dated March 9, 1999 the federal share of overpayment recoveries received from March 9, 1999 through April 30, 2000 for overpayments made before October 1, 1996, should have been remitted to HHS in accordance with the instructions in this PI. Instead, from March 9, 1999 through September 30, 1999, DHS continued its practice of investing the federal share of the recoveries into its TANF cash assistance program thereby reducing the amount of TANF funds drawn down for this time period and resulting in additional TANF surplus funds retained by HHS for the remainder of FFY 99.

This PI did not address how recoveries received prior to the date of the PI were to be treated, nor did it otherwise imply any type of retroactive effective date. DHS contends that it was reasonable to interpret this PI to only apply to overpayment recoveries received on or after March 9, 1999. As described above in item 4, DHS further contends that its treatment of any recoveries received prior to this PI was reasonable in the absence of any guidance from HHS and that the state should be held harmless for any recoveries that occurred between October 1, 1996 and March 9, 1999. DHS did begin complying with this PI effective the first quarter of FFY 00 as reflected in the report.

DHS acknowledges that it failed to remit the federal share of recoveries for the time period of March 9, 1999 through September 30, 1999. However, as the report does not break-down recoveries on a monthly basis, this amount must be calculated.

6. As indicated above in item 3, TANF-ACF-PI-99-2 (Revised) dated May 1, 2000 directed states to retain the full amount of any recovered overpayments (including the federal share) and use these funds for TANF program costs. While DHS had originally followed the directions in this PI and retained the federal share of recoveries received from May 1, 2000 through August 31, 2000, DHS subsequently made a payment of \$125,596 to HHS for this time period, based on the preliminary results of the OIG review.

DHS contends that this action was inappropriate and contrary to program instructions in effect for this time period. While TANF-ACF-PI-2000-2 dated September 1, 2000 rescinded and replaced TANF-ACF-PI-99-2 (Revised), DHS contends that it did not have any retroactive application as the September 2000 PI also clearly states that "Recoveries made prior to the date of this transmittal will be evaluated on reasonable interpretation of statutory requirements or any previous guidance provided by ACF." Consequently, DHS was not required to remit any portion of recoveries received from May 1, 2000 through August 31, 2000. DHS requests that the \$125,596 previously remitted to HHS be used to offset any repayment amount, or alternately, returned to the state. Again, as the current report does not provide a break-down of monthly recoveries, this will need to be done to determine whether any further adjustment may be necessary to credit DHS with any payments made for the time period that TANF-ACF-PI-99-2 (Revised) dated May 1, 2000 was in effect.

7. DHS has acted in accordance with the instructions found in TANF-ACF-PI-2000-2 dated September 1, 2000 with respect to all recoveries received since the date of this transmittal and continues to do so.

In the event that OIG denies any or all of DHS's contentions, DHS requests instructions for appealing the final report. If you have any questions about this response please contact Bob Krebs at (515) 281-6028, fax (515) 281-6237 or rkrebs@dhs.state.ia.us.

Sincerely,



Jessie K. Rasmussen  
Director

JKR/RSK



**Department of Health and Human Services**

**OFFICE OF  
INSPECTOR GENERAL**

**REVIEW OF OVERPAYMENT  
COLLECTIONS FOR AID TO FAMILIES  
WITH DEPENDENT CHILDREN  
PROGRAM BY THE STATE OF  
MISSOURI**



**JANET REHNQUIST  
INSPECTOR GENERAL**

**MAY 2002  
A-07-02-03014**



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of Inspector General  
Office of Audit Services

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

MAY 30 2002

CIN: A-07-02-03014

Ms. Denise Cross, Director  
Division of Family Services  
P.O. Box 58  
Jefferson City, Missouri 65103

Dear Ms. Cross:

This report provides you with the results of our review of Overpayment Collections made for the former Aid to Families with Dependent Children (AFDC) Program by the State of Missouri. AFDC program administration for the State was provided by the Department of Social Services (DSS). The objective of our review was to determine whether the DSS has continued to properly identify, collect, and remit the Federal share of AFDC overpayment collections to the Federal government after the program was repealed.

During the period October 1, 1996 through October 31, 2001, the DSS collected overpayments totaling \$5,430,746. The Federal share, computed using the Federal Medicaid Assistance Percentage for 1996 (60.06 percent), was \$3,261,706. The DSS remitted \$68,375 to the U.S. Department of Health and Human Services, Administration for Children and Families (ACF) during January 1997. That payment was for the Federal share of overpayment collections made during the first quarter of Federal Fiscal Year (FFY) 1997. However, the DSS made no further payments to ACF for the Federal share of overpayment collections. Instead, those collections were applied to another program without regard to Federal regulations and program instructions.

Therefore, we are recommending the DSS remit \$3,193,331 to the ACF representing the Federal share of AFDC overpayments collected during the period January 1, 1997 to October 31, 2001. We also recommend the DSS comply with program instruction requirements to identify and remit the Federal share of all subsequent collections on a quarterly basis.

The DSS did not concur with our findings and recommendations. Their comments are included in their entirety as Appendix B.

## INTRODUCTION

### BACKGROUND

The AFDC program was a Federal and State funded income maintenance program. It was administered by the State on behalf of needy families with dependent children.

Beginning in 1996, States were eligible to participate in a new program entitled Temporary Aid for Needy Families (TANF). This new program was implemented by the State of Missouri on December 1, 1996.

Under the former AFDC program, an individual recipient might, on occasion, receive a monthly Maintenance Assistance Payment in excess of the amount to which he or she was entitled. The State Agency responsible for administering the AFDC program was then obligated to recover the overpayment from the recipient by means of a reduction in future payments to the recipient or by collecting a cash settlement.

Federal regulations at 45 CFR 233.20 require States to continue efforts until the full amount of overpayment has been recovered. Although the AFDC program was repealed and replaced with TANF, the requirement to recover AFDC overpayments remains in effect.

The ACF issued a Program Instruction (PI), Transmittal Number: TANF-ACF-PI-2000-2 dated September 1, 2000. This PI stated that:

*For recoveries of former AFDC program overpayments made before October 1, 1996, States are required to repay to the Federal government the Federal share of these recoveries. These rules apply regardless of the fiscal year in which the recoveries are collected and received by the State. The Federal share of these recovered overpayments must be calculated by multiplying the total amount recovered by the Federal Medicaid Assistance Percentage (FMAP) rate in effect for the State during fiscal year 1996. States should not use the FMAP rate in effect during the year in which the overpayment occurred or the FMAP rate in effect during the year in which the recovery is made.*

### **OBJECTIVE, SCOPE AND METHODOLOGY**

Our review was conducted in accordance with generally accepted government auditing standards, except our review objectives did not require evaluation of the internal control structure. The objective of our review was to determine whether the DSS remitted the Federal share of AFDC overpayments to the Federal Government. We examined the supporting documentation for AFDC overpayments collected by the DSS from October 1, 1996 through October 31, 2001.

To achieve our objective, we reviewed applicable sections of TANF Program Instructions issued by the ACF and Federal regulations at 45 CFR 233.20. We researched the Cash Management Improvement Act - 31 CFR 205 to determine Federal requirements regarding interest on collections that were not remitted on a timely basis.

We examined the Form ACF-231 for the period October 1 through November 30, 1996 prepared by the State of Missouri. We considered other information provided to us, such as AFDC receivables information as of October 31, 2001. Our fieldwork was performed at the offices of the DSS in Jefferson City, Missouri during September 2001.

## FINDINGS AND RECOMMENDATIONS

We are recommending the DSS remit \$3,193,331 to the ACF representing the Federal share of AFDC overpayments collected during the period January 1, 1997 to October 31, 2001. We also recommend the DSS comply with TANF program instruction requirements to identify and remit the Federal share of all subsequent collections on a quarterly basis.

### OVERPAYMENT COLLECTIONS NOT TIMELY REMITTED

The DSS did not remit the Federal share of AFDC overpayments collected between January 1, 1997 and October 31, 2001. The Federal share of those collections (\$3,193,331) was instead applied to the TANF program. There were no program instructions or any other documentation provided that would allow the DSS to apply the Federal share of AFDC overpayment collections to a different program.

In fact, the ACF issued a Program Instruction (PI) TANF-ACF-PI-99-2 dated March 9, 1999, that states:

*In any quarter in which one or more of these overpayments are recovered, the Federal share must be returned to this agency with a check made payable to the U.S. Department of Health and Human Services... .*

The ACF issued another PI, TANF-ACF-PI-2000-2 on September 1, 2000. In this PI, the ACF further refined and reiterated requirements regarding payment of the Federal share:

*States that have been diligent in tracking AFDC overpayment recoveries but have not returned all or any of the Federal share of such amounts recovered to ACF should remit the Federal share of the total accumulated amounts to ACF via check no later than October 31, 2000.*

*Once States have become current with ACF with regard to past due remittances, checks should be submitted to ACF no less frequently than quarterly.*

### RECOMMENDATIONS

The DSS remitted \$68,375 to the ACF for the Federal share of overpayment collections made during the first quarter of FFY 1997. We are recommending the DSS remit \$3,193,331 to the ACF representing the Federal share of AFDC overpayments collected during the period January 1, 1997 through October 31, 2001. We also recommend the DSS comply with TANF program instruction requirements to identify and remit the Federal share of all subsequent collections on a quarterly basis.

## AUDITEE RESPONSE

The DSS did not concur with our findings and recommendations. Their comments are summarized below and included in their entirety as Appendix B.

The DSS asserts that any repayment should be limited to collections made on or after the September 1, 2000 transmittal date for TANF-ACF-PI-2000-2. They also assert that there were “*differing policy approaches*” between the three program instructions issued by the ACF for overpayment collections and that their “*approach was in full compliance*” with TANF-ACF-PI-99-2 (Revised).

The DSS further suggests that their approach was reasonable and allowable because both of the other PI’s state that “*...recoveries made prior to the date of this transmittal will be evaluated on reasonable interpretation of statutory requirements or any previous guidance provided by ACF.*”

## OIG COMMENTS

Under the AFDC program, the DSS was required to report overpayment collections quarterly and remit that amount by check, negative grant awards or benefit offsets. That program was repealed and replaced by an entirely different program (TANF) funded by a block grant. Although the AFDC program was repealed, the requirement for returning overpayment collections remained in place. Therefore, in the absence of any ACF instructions allowing the DSS to apply AFDC overpayment collections to a different program, it was not reasonable to do so.

We concur that the DSS was in compliance with TANF-ACF-PI-99-2 (Revised) for the very short time that PI was in effect. However, it would seem purely coincidental since they adopted their approach years before the PI was issued. Furthermore, the DSS made no effort to comply with either of the other two PI’s.

The first PI issued, TANF-ACF-PI-99-2, very specifically instructed the States that:

*In any quarter in which one or more of these overpayments are recovered, the Federal share must be returned to this agency with a check...*

There was no provision in this PI for evaluation based on a “*reasonable interpretation of statutory requirements or any previous guidance provided by ACF.*” Had the DSS complied with the first PI, they would have reported and remitted all collections made between January 1, 1997 and May 1, 2000.

Regardless, TANF-ACF-PI-2000-2 was issued by the ACF on September 1, 2000 and rescinded both of the prior PI’s issued for the treatment of AFDC overpayment collections. That PI clearly instructed the States to take one of the following actions based upon their situation:

*States that have been diligent in tracking AFDC overpayments...should remit the Federal share of the total accumulated amounts to ACF via check no later than October 31, 2000.*

*States that have not been properly tracking recovery of AFDC overpayments...must perform an analysis of their accounts receivable systems to identify all such recoveries received both via recoupment of AFDC or TANF benefits, and via cash collections. Upon completion of such analysis, the Federal share of the accumulated amounts recovered should be remitted to ACF via check.*

Since the required action included the remittance of AFDC overpayments recovered as TANF benefits, it seems clear that approach was not intended by ACF to be “evaluated” as a reasonable alternative.

Therefore, we are recommending the DSS remit \$3,193,331 to the ACF representing the Federal share of AFDC overpayments collected during the period January 1, 1997 through October 31, 2001. We also recommend the DSS comply with TANF program instruction requirements to identify and remit the Federal share of all subsequent collections on a quarterly basis.

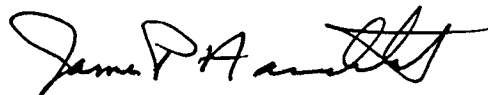
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**INSTRUCTIONS FOR AUDITEE RESPONSE**

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 the recommendations in this report within 30 days to the HHS action official, presenting any comments or additional information that you believe may have a bearing on final determination.

In accordance with the principles of the Freedom of Information Act, 5 U.S.C. 552, as amended by Public Law 104-231, Office of Inspector General, Office of Audit Services reports are made available to the public to the extent information contained therein is not subject to exemptions in the Act. (See 45 CFR Part 5). As such, within ten business days after the final report is issued, it will be posted on the world wide web at <http://oig.hhs.gov/>.

Sincerely,



James P. Aasmundstad  
Regional Inspector General  
for Audit Services

Enclosures

HHS Action Official:

Ms. Linda Lewis  
Regional Administrator, Region VII  
601 East 12<sup>th</sup> Street, Room 276  
Kansas City, Missouri 64106



BOB HOLDEN  
GOVERNOR

MISSOURI  
DEPARTMENT OF SOCIAL SERVICES  
DIVISION OF FAMILY SERVICES

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65103

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1-800-735-2466

April 11, 2002

Mr. Gregory Tambke, Audit Manager  
Department of Health and Human Services  
Office of Inspector General/Office of Audit Services  
2425 Hyde Park Road  
Jefferson City, Missouri 65109

Dear Mr. Tambke:

This is in reply to the January 14, 2002, draft report, A-07-02-03014.

We were acting in good faith based upon what seemed to be a reasonable approach in 1996 on crediting or identifying collections against the Temporary Assistance for Needy Families program (TANF). In fact, the state's approach was in full compliance with the transmittal. TANF-ACF-PI-99-2 (Revised) May 1, 2000; however, the audit does not mention this nor the differing policy approaches provided by the Administration for Children and Families (ACF). The ACF transmittals of May 1, 2000, and TANF-ACF-PI 2000-2 of September 1, 2000, recognize the differing approaches by stating that: "recoveries made prior to the date of this transmittal will be evaluated on reasonable interpretation of statutory requirements or any previous guidance provided by ACF".

We cannot concur with an audit that finds the state at fault given the conflicting policies. Consequently, we believe that any request for repayment must be limited to Aid to Families with Dependent Children collections received on or after ACF's September 1, 2000 transmittal.

Please let me know if I can be of further assistance.

Sincerely,

A handwritten signature in cursive script that reads "Denise Cross".

Denise Cross  
Director

DC/LAW

cc: Dana Katherine Martin, Director Department of Social Services  
Brian Kinkade, Director Division of Budget and Finance



**Department of Health and Human Services**

**OFFICE OF  
INSPECTOR GENERAL**

**REVIEW OF OVERPAYMENT  
COLLECTIONS MADE FOR AID TO  
FAMILIES WITH DEPENDENT  
CHILDREN PROGRAM BY THE STATE  
OF UTAH'S DEPARTMENT OF  
WORKFORCE SERVICES**



**JANET REHNQUIST  
INSPECTOR GENERAL**

**MAY 2002  
A-08-02-03004**



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of Inspector General  
Office of Audit Services

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

CIN: A-08-02-03004

MAY 30 2002

Mr. Robert C. Gross  
Executive Director  
Department of Workforce Services  
140 E 300 S  
Salt Lake City, Utah 84111

Dear Mr. Gross:

This report provides you with the results of our review of Overpayment Collections made for the former Aid to Families with Dependent Children (AFDC) Program by the State of Utah's Department of Workforce Services (DWS). The objective of our review was to determine whether the DWS remitted the Federal share of AFDC overpayment collections to the Federal government after the program was repealed.

The State of Utah's Office of Recovery Systems (ORS) has systems in place to identify, collect, account for, and remit the Federal share of AFDC overpayments. The Federal share of collections made by the ORS between October 1, 1996 and June 30, 2001 totaled \$1,594,285. However, \$1,419,200 of that amount was remitted to the DWS where it was incorrectly applied to the Temporary Assistance for Needy Families (TANF) program instead of being remitted to the Administration for Children and Families (ACF). The remaining \$175,085 was remitted as required in quarterly payments beginning in February 2001.

We are recommending that the DWS remit \$1,419,200 to the ACF representing the Federal share of AFDC overpayments collected during the period October 1, 1996 through June 30, 2000.

The DWS and ORS agreed with our findings and recommendation, and their response is included in its entirety as Appendix C.

## INTRODUCTION

### BACKGROUND

The AFDC program was a Federal and State funded income maintenance program. It was administered by the State on behalf of needy families with dependent children. Beginning in 1996, States were eligible to participate in the new TANF program. This new program was implemented by the State of Utah on October 1, 1996.

Under the former AFDC program, an individual recipient might, on occasion, receive a monthly maintenance assistance payment in excess of the amount to which he or she was entitled. The State Agency responsible for administering the AFDC program was then obligated to recover the overpayment from the recipient by means of a reduction in future payments to the recipient or by collecting a cash settlement.

Federal regulations at 45 CFR 233.20 require States to continue efforts until the full amount of overpayment has been recovered. Although the AFDC program was repealed and replaced with TANF, the requirement to recover AFDC overpayments remained in effect.

The ACF issued a Program Instruction (PI), Transmittal Number: TANF-ACF-PI-2000-2 dated September 1, 2000. This PI stated that:

*For recoveries of former AFDC program overpayments made before October 1, 1996, States are required to repay to the Federal government the Federal share of these recoveries. These rules apply regardless of the fiscal year in which the recoveries are collected and received by the State. The Federal share of these recovered overpayments must be calculated by multiplying the total amount recovered by the Federal Medicaid Assistance Percentage (FMAP) rate in effect for the State during fiscal year 1996. States should not use the FMAP rate in effect during the year in which the overpayment occurred or the FMAP rate in effect during the year in which the recovery is made.*

### **OBJECTIVE, SCOPE AND METHODOLOGY**

Our review was conducted in accordance with generally accepted government auditing standards, except our review objectives did not require evaluation of the internal control structure. The objective of our review was to determine whether the State of Utah remitted the Federal share of AFDC overpayment collections to the Federal government after the program was repealed. We examined supporting documentation provided by the ORS for AFDC overpayments collected by the State of Utah from October 1, 1996 through June 30, 2001.

To achieve our objective, we reviewed applicable sections of program instructions issued by the ACF and Federal regulations at 45 CFR 233.20. We researched the Cash Management Improvement Act - 31 CFR 205 to determine Federal requirements regarding interest on collections that were not remitted on a timely basis. We interviewed personnel responsible for operations, support, and integrity of AFDC overpayments.

We considered other information provided to us, such as warrants and payment vouchers supporting payments made to the ACF. A schedule of collections and payments made during the period October 1, 1996 through June 30, 2001 is attached as Appendix A.

Our fieldwork was performed at the offices of the ORS in Salt Lake City, Utah during September 2001.

### **FINDINGS AND RECOMMENDATIONS**

The ORS properly remitted the Federal share of AFDC overpayments for the period July 1, 2000 through June 30, 2001. However, no payments were remitted for the Federal share of AFDC overpayments collected between October 1, 1996 and June 30, 2000. The Federal share of those collections (\$1,419,200) was transferred from ORS to DWS, where it was applied to the TANF program. The ACF issued TANF-ACF-PI-99-2, dated March 9, 1999, that states:

*In any quarter in which one or more of these overpayments are recovered, the Federal share must be returned to this agency with a check made payable to the U.S. Department of Health and Human Services... .*

The ACF issued another PI, TANF-ACF-PI-2000-2 on September 1, 2000. In this PI, the ACF further refined and reiterated requirements regarding payment of the Federal share:

*States that have been diligent in tracking AFDC overpayment recoveries but have not returned all or any of the Federal share of such amounts recovered to ACF should remit the Federal share of the total accumulated amounts to ACF via check no later than October 31, 2000.*

*Once States have become current with ACF with regard to past due remittances, checks should be submitted to ACF no less frequently than quarterly.*

We are recommending the DWS remit \$1,419,200 to the ACF representing the Federal share of AFDC overpayments collected during the period October 1, 1996 through June 30, 2000.

### **OVERPAYMENT COLLECTIONS NOT REMITTED**

The Federal share of collections made by the ORS between October 1, 1996 and June 30, 2001 totaled \$1,594,285. However, the ORS did not submit payment for that amount to the ACF. Instead, \$1,419,200 representing the Federal share of collections made between October 1, 1996 and June 30, 2000 was transferred to DWS and incorrectly applied to the TANF program. The remaining \$175,085 was properly remitted.

### **RECOMMENDATION**

We recommend the DWS remit \$1,419,200 to the ACF for the Federal share of AFDC overpayments collected between October 1, 1996 and June 30, 2000.

### **Auditee Response**

The ORS agreed with our findings and recommendation, but requested that we address our recommendation to DWS since the ORS had transferred the money to DWS. The ORS indicated that they discussed this matter with DWS and that DWS agreed with this change. The ORS's response is included in its entirety as Appendix C.

### **OIG Comments**

This report reflects the change requested by ORS and DWS.

### **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 the recommendation in this report within 30 days to the HHS action official, presenting any comments or additional information that you believe may have a bearing on final determination.

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Sincerely,



James P. Aasmundstad  
Regional Inspector General  
for Audit Services, Region VII

Enclosures

HHS Action Official:  
Ms. Judy Galloway  
Acting Regional Administrator  
Federal Office Building  
1961 Stout Street, 9<sup>th</sup> Floor  
Denver, CO 80294-3538

**Appendix A**

**Schedule of Collections and Payments  
For the Federal Share of AFDC Overpayments  
State of Utah  
Salt Lake City, Utah  
For the Period October 1, 1996 through June 30, 2001**

<u>Quarter</u>	<u>Total Collections</u>	<u>TANF Portion</u>	<u>AFDC Portion</u>	<u>Federal Share (AFDC)</u>	<u>Federal Share Remitted</u>	<u>Date Remitted</u>
<u>FFY 97</u>	692,470	31,857	660,613	483,635		
<u>FFY 98</u>	621,814	77,004	544,810	398,855		
<u>FFY 99</u>	557,986	95,560	462,426	338,542		
<u>FFY 00</u>						
Oct - Jun	379,563	108,879	270,684	198,168		
Jul - Sep	72,490	25,072	47,418	34,715	34,715	2/08/2001
<u>FFY 01</u>						
Oct - Dec	79,762	26,554	53,208	38,953	38,953	2/08/2001
Jan - Mar	116,888	47,991	68,897	50,440	50,440	5/09/2001
Apr - Jun	<u>101,437</u>	<u>31,805</u>	<u>69,632</u>	<u>50,977</u>	<u>50,977</u>	7/10/2001
Totals	<u>\$2,622,410</u>	<u>\$444,722</u>	<u>\$2,177,688</u>	\$1,594,285	<u>\$175,085</u>	
Remitted				175,085		
Not Remitted				<u>\$1,419,200</u>		



State of Utah  
DEPARTMENT OF HUMAN SERVICES  
OFFICE OF RECOVERY SERVICES

Michael O. Leavitt  
Governor  
Robin Arnold-Williams  
Executive Director  
Emma I. Chacon  
Office Director

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(801) 536-0356 (For the Hearing Impaired)

February 11, 2002

Gregory Tambke, Audit Manager  
HHS/OIG/OAS  
2425 Hyde Park Road  
Jefferson City, Missouri 65109

RE: CIN - A-08-02-03004

Dear Mr. Tambke:

We are requesting you change the wording in the draft document to say DWS (Department of Workforce Services – State of Utah) will remit \$1,419,200 to the ACF rather than ORS (Office of Recovery Services – State of Utah). Documentation was provided showing that ORS remitted these funds to the Department of Workforce Services during the period in question.

We have discussed this change with DWS and they have agreed with the change since ORS transferred the money to DWS.

Sincerely,

Mike Tazelaar  
Deputy Director  
Office of Recovery Services

cc: Robert Gross, Director, Department of Workforce Services  
Robin Arnold-Williams, Director, Department of Human Services  
Emma Chacon, Director Office of Recovery Services  
Kathy Link, Department of Workforce Services  
Helen Thatcher, Department of Workforce Services

