

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**REVIEW OF OVERPAYMENT
COLLECTIONS MADE FOR THE
FORMER AID TO FAMILIES WITH
DEPENDENT CHILDREN (AFDC)
PROGRAM BY THE STATE OF
MONTANA**



**JANET REHNQUIST
INSPECTOR GENERAL**

**JULY 2002
A-08-02-03003**

Office of Inspector General

<http://oig.hhs.gov/>

The mission of the Office of Inspector General (OIG), as mandated by Public Law 95-452, as amended, is to protect the integrity of the Department of Health and Human Services (HHS) programs, as well as the health and welfare of beneficiaries served by those programs. This statutory mission is carried out through a nationwide network of audits, investigations, and inspections conducted by the following operating components:

Office of Audit Services

The OIG's Office of Audit Services (OAS) provides all auditing services for HHS, either by conducting audits with its own audit resources or by overseeing audit work done by others. Audits examine the performance of HHS programs and/or its grantees and contractors in carrying out their respective responsibilities and are intended to provide independent assessments of HHS programs and operations in order to reduce waste, abuse, and mismanagement and to promote economy and efficiency throughout the Department.

Office of Evaluation and Inspections

The OIG's Office of Evaluation and Inspections (OEI) conducts short-term management and program evaluations (called inspections) that focus on issues of concern to the Department, the Congress, and the public. The findings and recommendations contained in the inspections reports generate rapid, accurate, and up-to-date information on the efficiency, vulnerability, and effectiveness of departmental programs.

Office of Investigations

The OIG's Office of Investigations (OI) conducts criminal, civil, and administrative investigations of allegations of wrongdoing in HHS programs or to HHS beneficiaries and of unjust enrichment by providers. The investigative efforts of OI lead to criminal convictions, administrative sanctions, or civil monetary penalties. The OI also oversees State Medicaid fraud control units, which investigate and prosecute fraud and patient abuse in the Medicaid program.

Office of Counsel to the Inspector General

The Office of Counsel to the Inspector General (OCIG) provides general legal services to OIG, rendering advice and opinions on HHS programs and operations and providing all legal support in OIG's internal operations. The OCIG imposes program exclusions and civil monetary penalties on health care providers and litigates those actions within the Department. The OCIG also represents OIG in the global settlement of cases arising under the Civil False Claims Act, develops and monitors corporate integrity agreements, develops model compliance plans, renders advisory opinions on OIG sanctions to the health care community, and issues fraud alerts and other industry guidance.



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-08-02-03003

July 1, 2002

Ms. Marie Mathews
Fiscal Policy Analyst
DPHHS – Fiscal
P.O. Box 4210
Helena, MT 59604-4210

Dear Ms. Mathews:

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 Montana. AFDC program administration for the State was provided by the Department of Public Health and Human Services (PHHS). The objective of this review was to determine whether the PHHS has continued to identify, collect, and remit the Federal share of AFDC overpayments to the Federal government after the program was repealed.

During the period October 1, 1996 through December 31, 2001, the PHHS collected overpayments totaling \$620,493. The Federal share, computed using the Federal Medicaid Assistance Percentage for 1996 (69.38 percent), was \$430,498. The PHHS remitted \$435,463 to the U.S. Department of Health and Human Services, Administration for Children and Families (ACF) between October 1996 and February 2002. The resulting excess of \$4,965 remitted to the ACF will be withheld for the payment to the ACF for the quarter ended March 31, 2001.

The payments that were remitted to the ACF were not continually remitted on a quarterly basis. Payments for the period from April 1, 1999 through September 30, 2000 were remitted in a single payment on October 25, 2000. Also, payments for FFY 2001 were submitted in a single payment on December 31, 2001. The PHHS remitted payment to the ACF for the quarter ended December 31, 2001 on February 4, 2002.

Therefore, we recommend that the PHHS continue to comply with program instruction requirements to identify and remit the Federal share of all subsequent collections on a quarterly basis.

The PHHS concurred with our findings and recommendations. However, they took exception to our comments in the Other Matters section of the report regarding the possible interest liability they *may* have incurred under the Cash Management Improvement Act. The PHHS's 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 to Needy Families (TANF). This new program was implemented by the State of Montana on February 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 this review was to determine whether the PHHS remitted the Federal share of AFDC overpayments to the Federal government. We examined supporting documentation for AFDC overpayments collected by the PHHS from October 1, 1996 through December 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 copies of the Form ACF-231 for the period October 1, 1996 through December 31, 2001 prepared by the State of Montana. We considered other information provided to us, such as AFDC receivables information as of February 2002. A schedule of collections and payments covering October 1, 1996 through December 31, 2001 is attached as Appendix A. Our review was conducted via telephone and e-mail from the Denver field office.

FINDINGS AND RECOMMENDATIONS

We determined the PHHS remitted more than the Federal shares of AFDC overpayments from October 1, 1996 through December 31, 2001. The amounts the PHHS reported and paid to the ACF for the period October 1, 1996 through December 31, 2001 were accurate, and sufficiently supported. However, payments were not consistently remitted quarterly as required. Therefore, we recommend that the PHHS continue to comply with program instruction requirements to identify and remit the Federal share of all subsequent collections on a quarterly basis.

PAYMENTS IN EXCESS OF FEDERAL SHARE

The PHHS remitted payments to the ACF in excess of the Federal share of AFDC overpayment collections for the period October 1, 1996 through December 31, 2001. The total excess was \$4,965. This amount will be withheld from the payment to ACF for the quarter ended March 31, 2002.

The excess payment resulted from a large payment of \$250,073 on October 25, 2000. This payment was for the period from April 1, 1999 to September 30, 2000. The PHHS also remitted a payment in excess of the Federal share of collections for the quarter ended September 30, 1998. Payments for the remaining quarters of the review were less than the Federal share of collections.

OVERPAYMENT COLLECTIONS NOT TIMELY REMITTED

The PHHS did not remit all of the Federal shares of AFDC overpayments on a quarterly basis:

TANF-ACF-PI 99-2 dated March 9, 1999 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....”* However, this PI did not specify when the payments were due.

Remitting the Federal shares of AFDC overpayments on a quarterly basis is required by TANF-ACF-PI-2000-2. However, this Program Instruction was not issued until September 1, 2000.

The Federal shares for eight quarters (five quarters beginning April 1, 1999 and ending June 30, 2000 and three quarters beginning October 1, 2000 and ending June 30, 2001) were not remitted within 30 days after the end of a quarter.

The PHHS remitted a payment of \$250,073 on October 25, 2000 that represents the collections during the eighteen-month period April 1, 1999 through September 30, 2000.

The State also remitted a payment of \$38,002 on December 31, 2001 representing the Federal share of collections during FFY 2001. Since the audit start notice was dated August 22, 2001, it appears that PHHS resumed making payments as the result of our review.

RECOMMENDATIONS

The PHHS remitted \$435,498 to the ACF between October 1996 and February 2002. The payments resulted in an excess of \$4,965 remitted to the ACF. According to PHHS, the excess will be withheld for the payment to the ACF for the quarter ended March 31, 2001. We recommend that the PHHS continue to comply with program instruction requirements to identify and remit the Federal share of all subsequent collections on a quarterly basis.

Auditee Response

The PHHS concurred with our findings and recommendations. However, they took exception to our comments in the Other Matters section of the report regarding the possible interest liability they *may* have incurred under the Cash Management Improvement Act. The PHHS's response is included in its entirety as Appendix C.

OIG Comments

We made no determination whether or not the PHHS has incurred an interest liability under the Cash Management Improvement Act. This issue was included in the Other Matters section of our report as a reminder to the PHHS that they should consider the circumstances of their late payments with regard to that legislation.

Therefore, we consider the PHHS to be in complete agreement with our findings and recommendations.

OTHER MATTERS

In accordance with the Cash Management Improvement Act:

... a State will incur an interest liability to the Federal Government on a refund transaction of Federal funds. A State interest liability will accrue from the day the refund is credited to a State account to the day the refund is either paid out for program purposes or credited to a Federal Government account.

Since the PHHS collected overpayments and did not make quarterly remittances as required, we believe the State may be liable for interest related to collections that were not remitted quarterly.

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 from the date of this report 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 yours,



James P. Aasmundstad
Regional Inspector General
for Audit Services

Enclosures

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

**Schedule of Collections for the Federal Share of AFDC Overpayments
State of Montana
Helena, Montana
For the Period October 1, 1996 through December 31, 2001**

<u>Quarter</u>	<u>Federal Share Collected</u>	<u>Amount Remitted</u>	<u>Date Remitted</u>	<u>Amount Owed</u>
<u>FFY 1997</u>				
Oct – Dec	\$ 43,143	\$ 10,986		\$ 32,157
Jan – Mar	25,863	17,584		8,279
Apr – Jun	33,529	3,618		29,911
Jul – Sep	27,087	3,718		23,369
<u>FFY 1998</u>				
Oct – Dec	9,518			9,518
Jan – Mar	36,857	16,884		20,060
Apr – Jun	37,462	27,669		9,793
Jul – Sep	14,464	24,602	10/30/1998	(10,138)
<u>FFY 1999</u>				
Oct – Dec	22,261	12,886	01/28/1999	9,375
Jan – Mar	36,282	25,252	04/30/1999	11,070
Apr – Jun	30,569			30,569
Jul – Sep	11,309			11,309
<u>FFY 2000</u>				
Oct – Dec	17,965			17,965
Jan – Mar	10,222			10,222
Apr – Jun	8,672			8,672
Jul – Sep	9,091	250,073	10/25/2000	(240,982)
<u>FFY 2001</u>				
Oct – Dec	8,960			8,960
Jan – Mar	15,356			15,356
Apr – Jun	12,628			12,628
Jul – Sep	11,187	38,002	12/31/2001	(26,815)
<u>FFY 2002</u>				
Oct – Dec	7,988	4,189	02/04/2002	3,799
	<u>\$ 430,498</u>	<u>\$ 435,463</u>		<u>\$ (4,965)</u>

Appendix B

REVIEW OF
AFDC OVERPAYMENT COLLECTIONS
BY THE STATE OF MONTANA

AUDIT REPORT CIN: A-08-02-03003
KANSAS CITY, MISSOURI

OFFICE OF AUDIT INDIVIDUALS HAVING ACCESS TO SOURCE
INFORMATION REGARDING THIS AUDIT REPORT

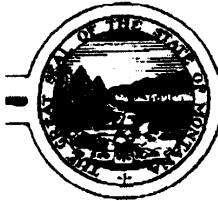
Name, Title

Gregory Tambke, Audit Manager
Randy Parker, Senior Auditor
Michael Helmick, Auditor
Brent Owens, Auditor
Rick King, Independent Reviewer

Class of Persons Having Access to this Report

Office Administrative Personnel

DEPARTMENT OF
PUBLIC HEALTH AND HUMAN SERVICES



JUDY MARTZ
GOVERNOR

GAIL GRAY, E.L.D.
DIRECTOR

STATE OF MONTANA

May 29, 2002

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

Dear Mr. Tambke:

This letter is in response to the DRAFT report of Overpayment Collections made for the former Aid to Families with Dependent Children (AFDC) program. I have reviewed the report and find the majority of the statements accurate.

The one area I would like to comment on is phrase pulled from the Cash Management Improvement Act.

"... a State will incur an interest liability to the Federal Government on a refund transaction of Federal funds. A state interest liability will accrue from the day the refund is credited to a State account to the day the refund is either paid out for program purposes or credited to a Federal Government account."

There are two reasons I don't believe this phrase is applicable. First the phrase it is pulled from Part 205 subpart A. Subpart A applies to the programs that meet the threshold for major Federal assistance programs, clearly AFDC no longer meets this thresholds. Second program instruction TANF-AFDC-PI-2000-2 instructed states to issue payments on a quarterly basis this does not mesh with the language above.

I concur that DPHHS had accounting problems that resulted in delayed submission of the required payments to HHS. I do not agree that pursuing interest liabilities is warranted. As the indicated over the course of time since AFDC ended Montana has actually over paid HHS.

Thank you for the opportunity to comment on the draft report.

Sincerely,

Marie Matthews
Fiscal Policy Advisor

OPTIONAL FORM 99 (7-99)

FAX TRANSMITTAL

of pages 1

To <i>Randy P</i>	From <i>Greg T.</i>
Dept./Agency	Phone #
Fax #	Fax #

*An Equal Op

NSN 7540-01-317-7388

5089-101

GENERAL SERVICES ADMINISTRATION