

**Memorandum**

Date . FEB 6 1996

From June Gibbs Brown  
Inspector General *June G Brown*

Subject Maintenance Payments Retained by Child Placing Agencies in the Texas Foster Care Program (A-06-95-00035)

To Mary Jo Bane  
Assistant Secretary for  
Children and Families

This is to alert you to the issuance on February 8, 1996 of our final report. A copy is attached. For designated "levels of care", the Texas Department of Protective and Regulatory Services (TDPRS) contracts with private child placing agencies to recruit qualified foster homes, place children in these homes, and manage the placements. The objective of this review was to determine if the child placing agencies under contract were improperly retaining a portion of the foster care maintenance payment.

We found an average of 38 percent of the funds intended to provide food, clothing and shelter were improperly retained by the child placing agencies. The State made payments on behalf of eligible children to 41 child placing agencies totaling about \$7.1 million and claimed approximately \$4.5 million in Federal financial participation over a 3-year period ending in Fiscal Year 1992.

Based on the 9 child placing agencies reviewed, we estimated that at least \$2.7 million (Federal share \$1.7 million) was retained for unallowable services under the Title IV-E Foster Care maintenance program. The retained funds, used for such services as costs of operations, case management, therapy, respite care, training, transportation, day care assistance, and medical needs not covered by Medicaid, do not meet the definition of maintenance payments and therefore are not allowable charges to the Title IV-E Foster Care program.

During a related review, "Improvements Needed in Monitoring Child Placing Agencies in the Texas Foster Care Program" (CIN: A-06-94-00041), we addressed two concerns surrounding the retention of maintenance payments. First, to determine if the retention of payments had any impact on the children, we interviewed foster parents. However, without objective measures for determining quality, the information obtained from the interviews was inconclusive. The Administration for Children and Families is currently developing performance indicators needed to measure outcomes or child well-being. When these outcome measures are established, we believe that TDPRS, who is ultimately responsible for the placement and care of foster children,

should do additional work in this area to determine what, if any, impact the retention of payments has had on children.

The second concern was to determine if the retention of payments was encouraged by an overstated rate setting structure. In our preliminary review of the rate setting methodology, we noted that a recent Texas State Auditor's report pointed out that the methods used to set reimbursement rates for foster care providers need to be reviewed. In response to the State Auditor's report, the State will be convening a task force to review the current reimbursement methodology.

Our review also disclosed that the State paid for duplicate claims and for services not provided or billed by the child placing agencies. The State's payment system does not have sufficient controls to preclude these types of payments, such as an edit check to identify duplicate payments. For the 9 child placing agencies reviewed, the State made duplicate payments totaling \$41,268 (Federal share \$26,389), payment for services not provided totaling \$46,857 (Federal share \$29,103) and payments for services not billed totaling \$3,016 (Federal share \$1,856).

We recommended that the State refund foster care maintenance payments retained by child placing agencies, duplicate payments and payments for services not provided or billed. We also recommended that the State correct procedural weaknesses in the Title IV-E Foster Care maintenance program.

The State concurred in our findings and recommendations pertaining to making a financial adjustment for the payment of duplicate claims, for payments for services not provided, and for payments for services not billed. The State did not concur with the findings and recommendations pertaining to making financial adjustments for the retained maintenance payments and for reviewing periods subsequent to our audit and making the necessary financial adjustments. The State partially concurred with the findings and recommendation pertaining to the development of edits to prevent duplicate payments.

If you have any questions, please call me or have your staff contact John A. Ferris, Assistant Inspector General for Administrations of Children, Family, and Aging Audits, at (202) 619-1175.

Attachment

**Department of Health and Human Services**

**OFFICE OF  
INSPECTOR GENERAL**

**MAINTENANCE PAYMENTS RETAINED  
BY CHILD PLACING AGENCIES IN THE  
TEXAS FOSTER CARE PROGRAM**



**JUNE GIBBS BROWN  
Inspector General**

**FEBRUARY 1996  
A-06-95-00035**



Our Reference: CIN: A-06-95-00035

Mart Hoffman, MSSW, MBA  
Interim Executive Director  
Texas Department of Protective and Regulatory Services  
701 W. 51st Street  
Mail Code W-639  
Austin, Texas 78714-9030

Dear Mr. Hoffman:

Enclosed are two copies of our final report entitled, "Maintenance Payments Retained by Child Placing Agencies in the Texas Foster Care Program." Child placing agencies were improperly retaining maintenance payments intended for the care of children placed in foster homes. The child placing agencies were using the funds for such services as costs of operations, case management, therapy, counseling, respite care, psychiatrists, training, transportation, day care assistance, medical needs not covered by Medicaid, recreation and other administrative costs. In addition, the State paid the child placing agencies for duplicate claims, for services not provided and for services not billed by the child placing agencies.

We recommended that the State refund foster care maintenance payments retained by child placing agencies, duplicate payments and payments for services not provided or billed. We also recommended that the State correct procedural weaknesses in the title IV-E Foster Care maintenance program.

In responding to our draft report, the State concurred in our findings and recommendations pertaining to making a financial adjustment for the payment of duplicate claims, payments for services not provided and for payments for services not billed. The State did not concur with the findings and recommendations pertaining to making a financial adjustment for the retained maintenance payments and for reviewing periods subsequent to our audit and making the necessary financial adjustments. The State partially concurred with the finding and recommendation pertaining to the development of edits to prevent duplicate payments.

Copies of this report are being sent to other interested Department officials. If you have any questions, we can be reached at (214) 767-8415.

Page 2 - Mr. Mart Hoffman

To facilitate identification, please refer to the referenced common identification number in all correspondence relating to this review.

Sincerely yours,

A handwritten signature in black ink that reads "Donald L. Dille". The signature is written in a cursive style with a prominent initial "D".

Donald L. Dille  
Regional Inspector General  
for Audit Services

Enclosure



Our Reference: CIN: A-06-95-00035

Mart Hoffman, MSSW, MBA  
Interim Executive Director  
Texas Department of Protective  
and Regulatory Services  
701 W. 51st Street  
Mail Code W-639  
Austin, Texas 78714-9030

Dear Mr. Hoffman:

Child placing agencies were improperly retaining an average of 38 percent of the funds intended to provide food, clothing and shelter for children under their care. Instead the retained funds were used for such services as costs of operations, case management, therapy, counseling, respite care, psychiatrists, training, transportation, day care assistance, medical needs not covered by Medicaid, recreation and other administrative costs. These costs do not meet the definition of maintenance payments and therefore are not allowable charges to the title IV-E Foster Care program.

We addressed two concerns surrounding the retention of maintenance payments during a related review, "Improvements Needed in Monitoring Child Placing Agencies in the Texas Foster Care Program" (A-06-94-00041). First, to determine if the retention of payments had any impact on the children, we interviewed foster parents. However, without objective measures for determining quality, the information obtained from the interviews was inconclusive. The Administration for Children and Families is currently developing performance indicators needed to measure outcomes or child well-being. When these outcome measures are established, we believe that Texas Department of Protective and Regulatory Services (TDPRS), which has ultimate responsibility for the placement and care of foster children, should do additional work in this area to determine what, if any, impact the retention of payments has had on children.

The second concern was to determine if the retention of maintenance payments was encouraged by an overstated rate setting structure. In our preliminary review of the rate setting methodology, we noted that a recent Texas State Auditor's report pointed out that the methods used to set reimbursement rates for foster care providers need to be reviewed. In response to the State Auditor's report, the State will be convening a task force to review the current reimbursement methodology.

Texas contracts with child placing agencies to recruit qualified foster care homes, place children in their homes and manage the placements. The oversight agency, TDPRS, was not providing guidance or monitoring the child placing agencies to ensure that the foster children in their care were receiving the full benefits of the maintenance payment.

The State made foster care payments on behalf of federally eligible children to 41 child placing agencies totaling \$7,150,947 and claimed approximately \$4,537,186 in Federal financial participation (FFP) over a 3-year period ending in Fiscal Year (FY) 1992. Based on the 9 child placing agencies reviewed, we estimate that at least \$2,705,509 (Federal share, \$1,716,829) was retained for unallowable services under the title IV-E Foster Care maintenance program. The objective of this review was to determine if the child placing agencies under contract were improperly retaining a portion of the foster care maintenance payment. Based on limited review of claims through August 1994, the practice of improperly retaining title IV-E maintenance payments by child placing agencies continues.

In addition, the State paid the child placing agencies for duplicate claims and for services not provided or billed by the child placing agencies. The State's payment system does not have sufficient controls to preclude these types of payments, such as an edit check to identify duplicate payments. For the 9 child placing agencies reviewed, the State made duplicate payments totaling \$41,268 (Federal share, \$26,389), payments for services not provided totaling \$46,857 (Federal share, \$29,103) and payments for services not billed totaling \$3,016 (Federal share, \$1,856).

We are recommending that the State refund foster care maintenance payments retained by child placing agencies, duplicate payments and payments for services not provided or billed. We are also making recommendations for the State to correct procedural weaknesses in the title IV-E Foster Care maintenance program.

The State concurred in our findings and recommendations pertaining to making a financial adjustment for the payment of duplicate claims, for payments for services not provided and for payments for services not billed. The State did not concur with the findings and recommendations pertaining to making financial adjustments for the retained maintenance payments and for reviewing periods subsequent to our audit and making the necessary financial adjustments. The State partially concurred with the finding and recommendation pertaining to the development of edits to prevent duplicate payments. The State's response to our draft report is contained as Appendix D in this report.

## **BACKGROUND**

The Adoption Assistance and Child Welfare Act of 1980, Public Law 96-272, was enacted on June 17, 1980. This legislation established a new program, the title IV-E Foster Care program titled Federal Payments for Foster Care and Adoption Assistance. The foster care component of the Aid to Families with Dependent Children (AFDC) program, which had been an integral part of the AFDC program under title IV-A of the Social Security Act was replaced by title IV-E effective October 1, 1982.

The title IV-E Foster Care program is administered by the Department of Health and Human Services, Administration for Children and Families (ACF). In Texas, the Foster Care program is a State supervised, State administered program. The TDPRS is the State agency that is responsible for administering the Foster Care program in Texas.

At the end of the State's FYs 1990, 1991 and 1992, the number of children in the Foster Care program was 7,156, 8,475, and 9,965, respectively. During our audit period, the State made Federal foster care payments to 41 child placing agencies under contract totaling \$7,150,947 and claimed approximately \$4,537,186 in FFP.

Section 475(4)(A) of the Social Security Act states that foster care maintenance payments cover the cost of (and the cost of providing) food, clothing, shelter, daily supervision, school supplies, a child's personal incidentals, liability insurance with respect to a child, and reasonable travel to a child's home for visitation. This definition does not include administrative costs of such child placing agencies. The ACF Policy Announcement 82-01 states, "Costs borne by child placing agencies are not eligible for FFP."

At our request, in April 1994, ACF issued a clarification letter on the foster care maintenance payments made to child placing agencies. The ACF stated in the letter that the maintenance "payments may not be for social services or for the costs of administration and operation of the child placing agency." Further, the letter specified that it is the State's responsibility to ensure that the maintenance payments are used to meet the basic needs of the child.



## SCOPE OF AUDIT

Our audit was performed in accordance with generally accepted government auditing standards. The objective of our audit was to determine if the agencies under contract improperly retained a portion of the foster care maintenance payment.

The State's significant internal controls identified for purposes of our review included controls over the cash disbursements for foster care services. However, we did not rely on these controls because of the weaknesses we identified. These weaknesses relate to payments for children no longer in the child placing agency's care, to incorrect homes within the child placing agencies and for duplicate service dates.

To achieve our audit objective, we:

- ▶ reviewed contracts between the State and the nine child placing agencies selected for audit (eight statistically sampled and one judgmentally selected);
- ▶ reviewed accounting records for the nine child placing agencies selected for review;
- ▶ determined if the level of care rates paid by the State were in conformance with the terms of the contract;
- ▶ determined if payments were eligible for FFP in accordance with title IV-E of the Social Security Act;
- ▶ considered ACF policy announcements, program interpretations and program instructions addressing specific subject areas where policy questions had been raised; and
- ▶ conducted interviews with State and child placing agency officials and provided them an opportunity to respond and present additional documentation.

As a test, we selected one child placing agency to determine if it was retaining a portion of the title IV-E maintenance payments. Based on the results of this test, we statistically selected 8 child placing agencies from the remaining 40. The State made foster care payments totaling \$7,150,947 on behalf of federally eligible children to 41 child placing agencies for the 3-year period ending September 30, 1992. Of this amount, \$6,787,481 represented expenditures for the universe of 40 child placing agencies. The remaining \$363,466 represented expenditures for the test child placing agency. The 9 child placing agencies examined received a total of \$5,023,880 in payments and retained \$2,542,978 (Federal share, \$1,613,683). See Appendix A for sample results, Appendix B for sampling methodology, and Appendix C for actual amounts examined for sampled child placing agencies.

We conducted our field work at the State's administrative offices in Austin, Texas and at the nine child placing agencies. The findings included in this report were developed as part of a comprehensive review of foster care placements through child placing agencies. Field work on that review concluded in August 1994.

## RESULTS OF REVIEW

Over a 3-year period, the child placing agencies improperly retained an average of 38 percent of the foster care maintenance payments intended to meet the basic needs of the child. The State did not monitor the child placing agencies to ensure that foster care children received the full benefits of the maintenance payment. As a result, the child placing agencies retained an estimated total of \$2,705,509 (Federal share, \$1,716,829) for services not allowable as foster care maintenance payments.

### MAINTENANCE PAYMENTS RETAINED

The child placing agencies retained 38 percent of the title IV-E maintenance payment to pay for such services as costs of operations, case management, therapy, counseling, respite care, psychiatrists, training, transportation, day care assistance, medical needs not covered by Medicaid, recreation and other administrative costs. These are necessary services that are ordinarily paid for by other Federal or State programs. For the period of this review, other major Federal program sources of funding for these type of services were exhausted.

These retained funds do not meet the definition of maintenance payments as defined in Section 475 (4)(A) of the Social Security Act and therefore are not allowable charges to the title IV-E Foster Care program. Child placing agency officials explained that they were not aware of title IV-E regulations restricting the services that could be claimed under title IV-E as maintenance payments. These same officials explained that the State did not provide adequate guidance concerning the administration of the title IV-E program.

A Texas State Auditor's report issued in September 1994 entitled, "A Review of Management Controls at the Texas Department of Protective and Regulatory Services", stated that the "CPS<sup>1</sup> does not have established policies and procedures for contract administration of agreements with foster care providers. Although the agreements contain elements of a contract--an offer, an acceptance, and consideration--the program does not manage them through a formalized process." The State Auditor recommended that CPS develop a contract administration process for foster care provider agreements. The agreements should include "performance-based measures, outputs, outcomes, and terms for sanctions and termination."

Children placed through the child placing agencies were not receiving the full amount of financial support provided under the title IV-E program while foster children in homes under the State's direct supervision received the full amount of the maintenance payment. For example, for a child entitled to a daily maintenance payment of \$36.65, one placement

---

1. Child Protective Services

agency provided only \$10.00 to the foster home. The difference of \$26.65 was retained by the child placing agency. In another example, a child placing agency was paying its foster care homes \$26.00 a day for children who were entitled to a maintenance payment of \$67.10 a day. The agency was keeping the difference of \$41.10 for non-maintenance costs. Eight of the nine child placing agencies reviewed consistently paid their foster homes less than the maintenance payment they received from the State agency. Of the 441 children included in this review, a portion of the maintenance payment for 424 of these children was retained for non-maintenance purposes.

Since the amounts inappropriately retained by the child placing agencies were claimed for FFP as maintenance payments, we are recommending that the TDPRS make a financial adjustment of \$2,705,509 (Federal share, \$1,716,829). We also recommend that the State perform periodic reviews of the child placing agencies to ensure that the children are receiving the full benefits of the title IV-E maintenance payments. We are also recommending that the State build requirements into the contracts with the child placing agencies requiring that the child placing agencies pay the full maintenance payment to the foster homes.

#### **OTHER MATTERS**

Three additional problem areas that require the State's immediate attention are that the State paid the child placing agencies for duplicate claims, for services not provided and for services not billed by the child placing agencies. The State's payment system does not have sufficient controls to preclude these types of payments. These areas were referred to the Texas State Auditor's Office in a letter dated January 31, 1994.

For the 9 child placing agencies reviewed, the State made duplicate payments totaling \$41,268 (Federal share, \$26,389), payments for services not provided totaling \$46,857 (Federal share, \$29,103) and payments for services not billed totaling \$3,016 (Federal share, \$1,856) for the 3-year period ending in FY 1992.

#### **Payments for Duplicate Claims**

In two previous audits, we reported that the State's current computer system does not contain an edit that will identify duplicate claims. In response to our audits, the State developed a computer run to identify claims processed with the same service month where the service dates exceed the number of days in that month. This report is run every 6 months. However, this report will not identify all duplicate claims. For example, if a foster care provider received two payments for the same foster child for the first 10 days of the month, this duplicate payment would not show up on the report since the total days did not exceed the number of days in the month. As a result, the State continues to make duplicate payments.

Based on our limited work on this audit, prior audits and conversations with State officials, this problem exists throughout the Foster Care program. For the 9 child placing agencies reviewed, the State made payments for duplicate claims totaling \$41,268 (Federal share, \$26,389).

We are recommending that the State reevaluate the process that it uses to identify duplicate claims. The process should identify duplicates when the dates of service do not exceed the number of days in the month. Additionally, the State should retroactively check its files for duplicate claims and make adjustments for any duplicate payments already made.

#### **Claims For Services Not Provided**

The State paid the nine child placing agencies reviewed for services not provided by these agencies. The State made payments totaling \$46,857 (Federal share, \$29,103) for children not in the direct care of the child placing agencies. The dates of service reported on the State's payment history did not match the child placing agencies' records as to the dates the foster children were in their care.

Although this condition relates to our work on child placing agencies, the problem is systemic in the foster care program. Therefore, we recommend that the State ensure that its computer system tracks the title IV-E children as to the exact date that the children entered and/or left their foster care placements. Additionally, we recommend that the State recover payments totaling \$46,857 (Federal share, \$29,103) for services not provided.

#### **Services Paid But Not Billed**

The State paid one child placing agency \$3,016 (Federal share, \$1,856) for services for the period January 1, 1990 through August 31, 1990 when the child placing agency's contract stipulated that the child placing agency did not accept payment. The child placing agency had no record of receiving these payments, and there was no evidence that the State recovered these payments.

We recommend that the State recover payments totaling \$3,016 (Federal share, \$1,856) for services not billed.

### **RECOMMENDATIONS**

We are recommending that the State:

1. Make a financial adjustment of \$2,705,509 (Federal share, \$1,716,829) for retained foster care maintenance payments.
2. Make a financial adjustment of \$41,268 (Federal share, \$26,389) for duplicate claims.
3. Make a financial adjustment of \$46,857 (Federal share, \$29,103) for payments for services not provided.
4. Make a financial adjustment of \$3,016 (Federal share, \$1,856) for payments for services not billed.

5. Review periods subsequent to our audit and make necessary adjustments for improper retention of title IV-E maintenance payments by child placing agencies.
6. Perform periodic reviews of the child placing agencies to ensure that the children are receiving the full benefits of the title IV-E maintenance payment.
7. Build requirements into the contracts with the child placing agencies requiring the child placing agencies to pay the full maintenance payment to the foster homes.
8. Develop edits in the payment system to preclude duplicate claims and claims for services not provided, review payments previously made and make appropriate adjustments.

- - - - -

TDPRS Response and OIG Comments

**Auditee Comments:** The State did not concur with recommendation No. 1. The State's response discussed the rate setting methodology for foster care, which was not an issue of this report. Its response described the methodology for calculating the title IV-E allowable rate. The State did not concur with the recommendation because 1) it uses a statewide uniform reimbursement amount without retrospective adjustment, and 2) all unallowable costs were removed in determining the title IV-E claimable portion. Also, it believes that the OIG may have used the full reimbursable amount paid to the child placing agencies instead of the calculated title IV-E amount.

The State believed that the title IV-E statute and regulation when written only recognized two kinds of settings, foster homes regulated directly by the State and child care institutions. The State contends that a child placing agency is more like a child care institution, with the same responsibilities and expectations. State officials believed that the cost of administration and operation of child placing agencies should be treated in the same manner as those of child care institutions. The State is currently developing a new reimbursement methodology for child placing agencies and their foster homes.

The State was under the impression that no Federal claim adjustment would result from this audit. This was not the case. Apparently this audit was confused with the Quality of Care audit which did not address financial issues and was recently issued.

**OIG Response:** The ACF has had program regulations since 1982 that clearly stipulate that maintenance payments are limited to meeting the basic needs of the foster child, such as food, clothing, shelter and transportation. Maintenance payments retained by the child placing agencies are not eligible for FFP. The methodology used by the State in determining statewide rates is not the issue. We used the title IV-E allowable rate in computing the financial adjustment.

In April 1994, ACF issued a clarification letter on the foster care maintenance payments made to child placing agencies. The ACF stated in the letter that the maintenance payments may not be used for social services or for the costs of administration and operation of child placing agencies. In addition, ACYF-PA-82-01 states that, "Costs borne by child placing agencies are not eligible for FFP."

The ACF also stated in the clarification letter that a State agency may enter into a contract with a child placing agency to reimburse it for the portion of administrative cost relating to the title IV-E program. These costs would have to be for foster care related functions and claimed by the State as administrative cost at the administrative matching rate of 50 percent. However, this should not include the cost of social services or the cost of providing social services.

We believe that in order for the child placing agencies to be paid for administrative costs, the following conditions must be met: (1) a contract between the child placing agency and the State must be made describing the services to be performed; (2) the contract should exclude all payments for social services; and (3) the payment should only be for administrative costs related to performing title IV-E services.

In the event that the State submits a claim for administrative costs, the claim should be supported by documentation that the claim is for allowable administrative costs and does not include the costs of social services and costs of providing social services.

**Auditee Comments:** The State concurred with recommendation No. 2.

**Auditee Comments:** The State concurred with recommendation No. 3.

**Auditee Comments:** The State concurred with recommendation No. 4.

**Auditee Comments:** The State did not concur with recommendation No. 5 and referred to its response to Finding 1.

**OIG Response:** We continue to believe that the maintenance payments retained by the child placing agencies should be refunded to the Foster Care program. If the State wishes to submit a claim for administrative costs, then the appropriate claim with supporting documentation should be submitted, excluding the costs of social services and the costs of providing social services.

**Auditee Comments:** The State concurred with recommendations 6 and 7.

**Auditee Comments:** The State partially concurred with recommendation No 8. The State believes that the current system provides sufficient safeguards to ensure that it does not pay for services not provided. The State informed us that improvements in the accuracy of payments was gained by changing the payment system so the State directly pays child placing agencies and other contracted child care facilities.

Edits to prevent duplicate payments are planned for the agency's new automated system, Child and Adult Protective System (CAPS). The financial management component of CAPS is slated for implementation sometime in the fall of 1996. The Internal Audit Division of the Texas Department of Human Services reviewed the current manual system and determined that this system is sufficient until the CAPS is implemented.

**OIG Response:** The State should continue to review its claims to detect duplicate payments. This continues to be a control weakness and has been pointed out in previous OIG audits of the State's Foster Care program. Even though the duplicate amounts appear to be a small percentage of the total payments made, \$41,000 can provide a substantial amount of support to foster families. Also, this amount represents the duplicate payments only for the nine child placing agencies reviewed. There could be additional duplicate payments for the other 32 agencies which were not selected for review.

Final determination as to actions taken on all matters 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), HHS OIG Office of Audit Services reports issued to the Department's grantees and contractors are made available, if requested, to members of the press and general public to the extent information contained therein is not subject to exemptions in the Act, which the Department chooses to exercise. (See 45 CFR, Part 5.) To facilitate identification, please refer to the above common identification number in all correspondence.

Sincerely yours,



Donald L. Dille  
Regional Inspector General  
for Audit Services

Enclosures

Action Official:

Leon McCowan  
Regional Administrator  
Administration for Children and Families  
U.S. Department of Health and Human Services  
1200 Main Tower Building, Room 1700  
Dallas, Texas 75202



**SUMMARY OF QUESTIONED COSTS  
FOR RETAINED MAINTENANCE PAYMENTS**

	<u>Number of Agencies</u>	<u>Number in Sample</u>	<u>Total Amount Retained</u>	<u>Federal Share</u>
Projected Amount	40	8	\$2,531,813	\$1,605,351
Actual Amount	<u>1</u>	<u>1</u>	<u>\$ 173,696</u>	<u>\$ 111,478</u>
Total	<u>41</u>	<u>9</u>	<u>\$2,705,509</u>	<u>\$1,716,829</u>

**PROJECTED DOLLARS QUESTIONED--\$2,705,509**

On a scientific random selection basis, we examined eight child placing agencies from a universe of 40. The evaluation of these eight agencies disclosed that each one retained a portion of the foster care payment. Using a standard scientific estimation process, we concluded that there is a 95 percent probability that for the audit period, at least \$2,705,509 (lower limit of the 90 percent two-sided confidence interval) was inappropriately retained and claimed for costs subject to FFP.

**FEDERAL SHARE--\$1,716,829**

Using the same scientific estimation process, we concluded that there is a 95 percent probability that for the audit period, at least \$1,716,829 (lower limit of the 90 percent two-sided confidence interval) was the Federal share of the retained amount.

**DESCRIPTION OF SAMPLE**

- Sample Objective:** To estimate the amount of title IV-E foster care maintenance payments that child placing agencies improperly retained.
- Background Information:** Section 475(4)(A) of the Social Security Act defines the kinds of costs reimbursed by foster care maintenance payments. The allowable costs do not include the administrative costs of child placing agencies. The payments cover the costs of (and the costs of providing) a foster child's food, clothing, shelter, daily supervision, school supplies, personal incidentals, liability insurance with respect to a child, and reasonable travel to a child's home for visitation.
- Population:** The population consisted of 41 child placing agencies receiving foster care maintenance payments under title IV-E of the Social Security Act during the three years ending September 30, 1992.
- Sampling Frame:** The sampling frame consisted of 40 child placing agencies receiving foster care maintenance payments under title IV-E of the Social Security Act during the three years ending September 30, 1992.
- Sample Design:** We judgmentally selected and reviewed one child placing agency. Based on the results of our review, we used the Rao, Hartley and Cochran methodology to select a sample from the remaining 40 agencies. The probability of selection for any agency was proportional to the amount of title IV-E payments that it received during the three years ending September 30, 1992.
- We reviewed (1) all title IV-E maintenance payments made by the Texas Department of Protective and Regulatory Services (TDPRS) to the child placing agencies in the sample and (2) all title IV-E payments made by the sample agencies to the foster homes under their direction.
- Sample Size:** The sample consisted of 8 child placing agencies.
- Source of Random Numbers:** The Office of Audit Services' statistical sampling software was used to select the sample.

## DESCRIPTION OF SAMPLE

**Characteristics to be Measured:** The characteristic to be measured was the amount of title IV-E foster care maintenance payments retained by the child placing agencies rather than paid to the foster homes under their direction. The amount retained was the difference between the title IV-E amount paid by TDPRS to the agencies and the amount paid by the agencies to the homes.

**Other Evidence:** We reviewed the maintenance payments made by TDPRS to the agencies in order to identify unallowable amounts such as duplicate claims and payments for services not provided or billed. Examples of payments for services not provided or billed included payments made at the wrong rate or for more days than the child spent in the foster home.

We excluded the duplicate claims and payments for services not provided or billed from the amount paid by TDPRS to the agencies in order to limit our statistical projection to maintenance payments properly made by TDPRS but improperly retained by the child placing agencies. Duplicate claims and payments for services not provided or billed are reported with no statistical projection to the population.

**Estimation Methodology:** We estimated that the 41 child placing agencies improperly retained \$2,705,509 (Federal share, \$1,716,829) in foster care maintenance payments made by TDPRS during the three years ending September 30, 1992. This amount is the sum of \$2,531,813 (Federal share, \$1,605,351) for the 40 agencies and \$173,696 (Federal share, \$111,478) for the judgmentally selected agency.

The amount for the 40 agencies is an estimate based on the statistical projection of the sample results for 8 agencies to the sampling frame of 40 agencies. It represents the lower limit of the 90 percent confidence interval. We are 95 percent confident that the 40 agencies improperly retained at least \$2,531,813 (Federal share, \$1,605,351).

The amount for the judgmentally selected agency represents actual payments improperly retained.

**SAMPLE RESULTS  
AND PROJECTION TO THE SAMPLING FRAME**

Population	41 Child Placing Agencies
Sampling Frame	40 Child Placing Agencies
Sample Size	8 Child Placing Agencies
Title IV-E Payments Retained by 8 Agencies in Sample	\$2,369,282 <i>(Federal share, \$1,502,205)</i>
Point Estimate of the title IV-E Payments Retained by 40 Agencies in Sampling Frame	\$3,194,317 <i>(Federal share, \$2,024,340)</i>
Precision Amount	\$662,504 <i>(Federal share, \$418,989)</i>
Precision Percent	20.74% <i>(Federal share 20.70%)</i>
Estimated title IV-E Payments Retained by 40 Agencies in Sampling Frame at the 90% Confidence Level	
Upper Limit	\$3,856,821 <i>(Federal share, \$2,443,330)</i>
Lower Limit	\$2,531,813 <i>(Federal share, \$1,605,351)</i>

**SUMMARY SCHEDULE OF  
ACTUAL AMOUNTS EXAMINED FOR SAMPLED AGENCIES**

<u>Agency</u>	<u>Total IV-E Payment</u>	<u>Total Amount Retained By Agency</u>	<u>Federal Share of Amount Retained</u>
1	\$2,780,483	\$1,456,270	\$926,706
2	214,405	99,903	62,339
3	43,797	191	123
4	373,818	324,717	205,115
5	619,855	207,218	130,793
6	204,948	117,540	73,400
7	322,943	115,289	72,824
8	<u>100,877</u>	<u>48,154</u>	<u>30,905</u>
Subtotal	<u>\$4,661,126</u>	<u>\$2,369,282</u>	<u>\$1,502,205</u>
Test Agency	<u>362,754</u>	<u>173,696</u>	<u>111,478</u>
Total	<u>\$5,023,880</u>	<u>\$2,542,978</u>	<u>\$1,613,683</u>



TEXAS DEPARTMENT OF PROTECTIVE AND REGULATORY SERVICES

INTERIM EXECUTIVE DIRECTOR  
Marr Hoffman, MSSW, MBA

September 22, 1995

Donald L. Dille  
Regional Inspector General for Audit Services  
Office of Inspector General  
U.S. Department of Health & Human Services  
1100 Commerce, Room 4A5  
Dallas, TX 75242

BOARD MEMBERS

Maurine Dickey, LMSW-AP  
Chairman, Dallas  
Penny Beaumont  
Bryan  
Jon M. Bradley  
Dallas  
Catherine Clark Mosbacher  
Houston  
Bill Sheehan  
Dumas  
Susan Stahl  
Dallas

Reference: CIN A-06-95-00035

Dear Mr. Dille:

This is in response to your letter of August 23, 1995, requesting comments from the Texas Department of Protective & Regulatory Services (PRS) on the draft report on the results of your audit of the retention by child-placing agencies of maintenance payments intended to provide food, clothing and shelter for children in their care. Below please find PRS's response to each of your recommendations.

In calculating the amount owed because of Finding #1, it appears that you may not have used the calculated Title IV-E allowable costs, but instead used the full reimbursable amount paid to the child-placing agencies.

1. Make a financial adjustment of \$2,705,509 (Federal share, \$1,716,829) for retained foster care maintenance payments.

Do not concur.

Reasons:

PRS questions the legitimacy of HHS' request for a financial adjustment for foster care payments retained by the child-placing agencies because 1) Texas uses a statewide uniform reimbursement amount without retrospective adjustment, and 2) all unallowable costs were removed in determining the Title IV-E claimable portion. As allowed under federal regulation, Texas has developed its own methodology for use in determining reimbursement amounts for the 24-hour child care program. The reimbursements are statewide uniform amounts by the child's level of care. The reimbursement amounts are determined prospectively without any retrospective adjustments.

Donald L. Dillie  
September 22, 1995  
Page 2

In determining the Title IV-E allowable portion of the statewide uniform reimbursement, the state removed the transportation, medical, educational, and therapy costs which were in the calculated reimbursement amounts. In addition to removing these costs, the state removed the pro rata share of administration costs associated with these expenses to determine the remaining costs to claim as IV-E allowable costs. This process of determining allowable IV-E claimable amounts was performed for both institutional and child-placing agency providers. Given the state's chosen reimbursement method and the removal of unallowable costs from the state's IV-E claim, it is unreasonable to determine recoupment adjustments on an individual foster home basis.

PRS recognizes that Policy Announcement 82-01 states that the definition of "foster care maintenance payments" (reimbursed at the FMAP rate) defined in Section 475(4) of the Social Security Act limits the reimbursement of "the reasonable costs of administration and operation" to institutional care. PRS also notes that PIQ 82-07 states that the administrative costs of a child-placing agency can be paid for through an administrative claim at the 50% reimbursement rate.

However, we submit that the Title IV-E statute and regulation when written only recognized two different kinds of settings, foster homes regulated directly by the state agency placing children and child care institutions. The statute recognizes that an institution must be able to be paid for "the reasonable costs of administration and operation," as long as that cost is shared on a pro rata basis with non-Title IV-E children. PRS submits that a child-placing agency is much more like a child care institution than an individual foster home. The functions performed by a child-placing agency are equivalent functions to those Title IV-E allowable "administration and operation" functions performed in a child care institution; they are merely performed in a different organizational structure. The responsibilities and expectations of a child-placing agency are similar to those for a child care institution. A child is expected to receive the same quality of care, in conformity with program standards, through a child-placing agency as through a child care institution.

PRS feels that the Department of Health & Human Services' (HHS) previous interpretation of federal statute penalizes states that have moved toward placing hard-to-place children in family-like settings rather than institutions, which seems to violate the spirit and intent of national legislation such as P.L. 96-272. PRS suggests that the costs of administration and operation of child-placing agencies should be treated in the same manner as those of child care institutions.

In the exit conference with Office of Inspector General (OIG) staff about a year ago, OIG representatives indicated that no federal claim adjustment would result from this audit, but that HHS would work with Texas to develop a reimbursement methodology to better reimburse child-placing agencies. We hope that this is still the plan. Currently, PRS is developing a new methodology for reimbursing child-placing agencies and their foster homes. PRS plans to request technical assistance from the Administration for Children & Families (ACF) to review the new methodology for its conformance to Title IV-E requirements.

Donald L. Dillie  
September 22, 1995  
Page 3

2. Make a financial adjustment of \$41,268 (Federal share, \$26,389) for duplicate claims.

Concur.

Corrective Action: As per our usual practice, this adjustment will be made if the finding is sustained and found to be material by ACF, and PRS is notified to make the financial adjustment.

3. Make a financial adjustment of \$46,857 (Federal share, \$29,103) for payments for services not provided.

Concur. However, see response to Finding 8.

Corrective Action: As per our usual practice, this adjustment will be made if this finding is sustained and found to be material by ACF, and PRS is notified to make the financial adjustment.

4. Make a financial adjustment of \$4,654 (Federal share, \$2,887) for payments for services not billed (*and for a period when the contract stipulated that the child-placing agency did not accept payment*).

**OIG Note: Financial adjustment amount revised to \$3,016 (Federal share \$1,856) based on additional information provided in response to draft report.**

Corrective Action: As per our usual practice, an adjustment of \$3,016 (Federal share \$1,856) will be made if this finding is sustained and found to be material by ACF, and PRS is notified to make the financial adjustment.



Donald L. Dillie  
September 22, 1995  
Page 4

5. Review periods subsequent to our audit and make necessary adjustments for improper retention of Title IV-E maintenance payments by child-placing agencies.

Do not concur. See response to Finding 1 above.

6. Perform periodic reviews of the child-placing agencies to ensure that the children are receiving the full benefits of the Title IV-E maintenance payment.

7. Build requirements into the contracts with the child-placing agencies requiring the child-placing agencies to pay the full maintenance payment to the foster homes.

Concur.

Corrective Action: PRS is still developing a reimbursement methodology which will identify the minimum payment which is to be paid to the foster family or used by the child-placing agency for the maintenance of the child. Once that minimum amount is established, PRS will add a term to its contract with a child-placing agency to require the agency to either pay the stated amount to their foster homes, or be able to document how the funds were spent on the maintenance of the child by the child-placing agency (such as when the agency pays the rent for the foster home). Our agency's intent is to regularly monitor the child-placing agencies' financial records on a sample basis to ensure that the minimum amount is paid to the foster homes or spent by the child-placing agency on the children's maintenance.

8. Develop edits in the payment system to preclude duplicate claims and claims for services not provided, review payments previously made and make appropriate adjustments.

Partially concur.

Explanation: We believe our current system does provide sufficient safeguards to ensure that PRS does not pay claims for services not provided. Our payments for service are verified against our foster care tracking system, to which updates are made by the same staff that place children in and remove children from these agencies' foster homes. We believe that it is equally plausible that the records of the child-placing agencies are in error. For example, some child-placing agencies expect payment beginning the date of the pre-placement visit because a space is being reserved for the child; PRS cannot pay for those days because the child is not actually placed there until a later date. Also, please note that this audit covers FFY 1990-1992, two years of which were during the time that county child welfare boards paid the child-placing agency first, and then sought reimbursement from PRS. Much improvement in accuracy of payments was gained by changing the payment system so that PRS directly pays child-placing agencies and other contracted child care facilities. Also, please note that the auditors only found \$46,857 out of \$5,023,880 that were in error for this reason.

Corrective Action. In response to previous audit findings by OIG and the state auditor, edits to prevent duplicate payments for the same days of care are planned for the agency's new automated system, Child and Adult Protective System (CAPS). The financial management component of CAPS is slated for implementation sometime in the fall of 1996.

Donald L. Dillie  
September 22, 1995  
Page 5

Also, as stated in previous responses, we have developed a reporting mechanism which identifies apparent duplicate payments for the same child for the same service period. This report is produced and mailed periodically to the foster care billing staff, who make appropriate corrections to the billing system and return documentation of the corrections to state office. This initiative has been done for four six-month periods in state Fiscal Years 1993 and 1994. Please note that the period covered by the current audit is prior to the initiation of that corrective action. Given the relatively small amount of the finding on duplicate payments by this audit (\$41,268, 0.8% of the payments reviewed by OIG), we feel that the corrective actions underway are sufficient until the implementation of CAPS. This issue has been reviewed by the Internal Audit Division of the Texas Department of Human Services, with whom PRS contracts for audit services. These auditors concur that the manual corrective actions we have initiated are sufficient until CAPS is implemented. The costs involved in revising the current payment system to include building and searching a historical database of payments on a nightly basis have to be weighed against the minimal risk as evidenced by this immaterial finding.

Please feel free to contact me or my staff if you have any questions about any of our responses. Kathy Campbell in Protective Services for Families & Children at (512) 438-3288 is prepared to pursue any questions you may have. We look forward to working with the Administration for Children and Families in reviewing the new reimbursement methodology planned for child-placing agencies.

Sincerely,



Mart Hoffman, MSSW, MBA

Attachment

MH:pkd

AGREEMENT BETWEEN THE TEXAS DEPARTMENT OF HUMAN SERVICES  
AND LICENSED CHILD PLACING AGENCY

The Texas Department of Human Services, hereinafter called TDHS, and The Casey Family Program  
hereinafter called the Provider, by this agreement and in consideration  
of the mutual promises set forth agree as follows:

I. TDHS AGREES:

TDHS as the single state agency responsible for administering and providing services to children and their families under Title IV, B and E and Title XX of the Social Security Act and under the provisions of the Texas Family Code and Human Resources Code agrees to purchase 24-hour child care from

Austin Division, THE CASEY FAMILY PROGRAM

(Provider)

who is licensed as a Child Placing Agency

(Enter category of care for which licensed)

and will provide the Level of Care as Level I and II

(Enter Levels of Care for which Provider meets standards.)

II. PROVIDER AGREES:

1. To comply with and maintain the minimum licensing standards for Child-Placing Agencies, 24-Hour Care and Adoption.
2. To comply with and maintain the program standards which are attached to this agreement for  
Level I and II  
(Enter Levels of Care which are provided at this agency)
3. To provide the program of services described in their licensing study and to effectuate the goals contained in the child's plan of service for each child admitted to their program.
4. To accept, as the application for admission, the common application document approved by the Health and Human Services Coordinating Council (HHSCC) for placement of TDHS children. The Provider is under no obligation to accept a child deemed inappropriate for placement.
5. To notify TDHS when a child is moved from one level or type of living arrangement to another. This applies to children being moved from one level of care to a lesser level of care such as movement from a residential treatment center program and living arrangement to a family foster home, group home, halfway house or other transitional living situation. This notification must be made five days prior to the child's movement to another level of care.

Failure to notify TDHS of a child's movement from one level of care to a lesser arrangement or level constitutes an audit exception and a facility may be requested to make restitution to TDHS to resolve the exception.

6. The Provider agrees to participate in the development of the child's service plan as required by Licensing Standards. The service plan shall specify which agency will provide on-going services to the child and to the child's family. Both the Department and the Provider must participate in any plan for discharge.
7. The Provider will supervise the foster home, provide appropriate social services to the foster family, and ensure on-going compliance by the foster home with all applicable Minimum Licensing Standards.

8. To maintain and retain financial records as follows:
  - a. All providers shall retain financial records as required by the appropriate licensing standards. These records will be available for review by TDHS as needed for accountability to funding sources and for use in establishing payments rates.
  - b. TDHS will not review bookkeeping records of any agency that does not receive State or Federal funds or private funds for a child in the conservatorship of TDHS.
9. To allow TDHS to conduct a program review of the Provider to determine if the program meets the needs of children placed by TDHS and meets program standards for the Level of Care provided.
10. To report any disaster, major change, or serious occurrence which affects the Provider or any child placed by the Department to the TDHS representative assigned as the Provider's contact person within 24 hours or the next working day.
11. To allow children in TDHS conservatorship to participate in any and all services deemed appropriate by TDHS. TDHS agrees to give appropriate notice and consider provider input on these issues.

II. PROVIDER ACKNOWLEDGES:

1. That TDHS cannot use State or Federal funds to reimburse the Provider for vandalism or damage caused by deliberate acts of destruction by the child. Any reimbursement for such damage may be sought from the Child Welfare Board, if any, of the County from which the child was placed (county of legal jurisdiction).
2. That TDHS cannot pay for or reimburse the Provider for any medical or dental expenses not covered by Medicaid or by the child's private insurance, if any. Payment or reimbursement for uncovered medical expenses may be sought from the Child Welfare Board, if any, of the county from the child was placed (county of legal jurisdiction).
3. That TDHS cannot agree to any before-the-fact "Release of Liability" to release the Provider, or the Provider's director, board members or employees from liability for damages or injuries to the child.

III. TDHS AGREES:

1. To pay the Provider per Attachment A per day per each eligible child placed by the Department. These rates are to cover administrative expenses, nutrition, child care services, education, school supplies, personal needs, recreation, travel and transportation, and clothing. For exceptional care facilities, these rates also cover psychological and therapeutic or social services, and any health, medical, or psychiatric services which are not covered by Medicaid. These rates shall be effective as of September 1, 1990.
2. That a child is present for purposes of billing if the child goes to bed for the night at the facility, or is the child is authorized by TDHS to be away from the facility. Authorization to be away from the facility must be in writing and may extend for a period up to and including 30 successive days.
3. That if a child is away from the facility without prior authorization and if TDHS and the Provider agree the child should return to the facility, then the provider may keep the placement open for the child, and TDHS agrees to pay for up to 30 days as if the child had been present.
4. To remove a child if notified that the Provider believes the child is a substantial threat to the health and safety or wellbeing of the Provider, their staff, or other children in residence.
5. To remove any child placed pursuant to this agreement only after joint case planning with TCFP. Final removal decisions will rest with TDHS.
6. To comply with the minimum standards for Child Placing Agencies, 24-Hour Care and Adoption.
7. To reserve the right to place children only in those facilities which it believes can meet the needs of the child. No part of this agreement shall be construed as a commitment by the Department to place either a particular child or a specified number of children in the facility.
8. To be responsible for carrying out the rights and duties of the managing conservator, when so appointed by the court of jurisdiction.

IV. TERMINATION OF AGREEMENT:

1. The Provider agrees to Notify TDHS immediately, not to exceed 24 hours, if the owner, operator or any employee of the facility is arrested for a felony or misdemeanor offense against the person or family, public indecency, or a violation of the Texas Controlled Substances Act. The Provider agrees that TDHS may investigate or elect to terminate this contract immediately if such charges are filed and may require the Provider to immediately remove any such employee from the premises or from any contact with children in care.
2. Notwithstanding the provision for termination in paragraph IV, 1 of this agreement, TDHS may terminate or change this agreement at any time if the Provider's license is probated, revoked, or expires and is not renewed, or TDHS finds that the Provider does not meet program standards for the Level of Care (L.O.C.) which is to be provided.
3. This agreement may be canceled at any time by mutual agreement of both parties, or by either party giving notice in writing to the other of intent to terminate the agreement within 30 days, or by either party for the other party's failing to comply with the above provision of the agreement.

V. EQUAL OPPORTUNITY:

The Provider agrees to comply with Title VII of the Civil Rights Act of 1964. The Provider agrees they will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age or handicapped condition.

VI. OTHER PROVISIONS:

This provision will be in effect for one year (or as set out in Section IV, Item 3) between Travis County, TDHS and the Austin Division, <sup>the</sup> Casey Family Program.

In the event disagreement arises regarding case management and removals, the matter will be referred to the appropriate Division Director of TCFP and a designated representative of the regional office. If there is no resolution at that level, the matter will be appealed to a designated representative in the State Office whose decision will be final.

TDHS shall appoint a state liaison in the state TDHS office who shall ensure execution of the contract, facilitate collaborative programs, and who has the authority to resolve issues of concern to Casey or TDHS. (C.H.)

For the Department of Human Services:

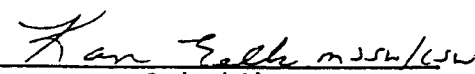
  
Department of Human Services Representative

701 W. 51st Austin, TX 78714  
Office Address

(512) 450-3070  
Office Telephone Number

10/31/90  
Date

APPROVED:

  
Regional Director  
Protective Services for Families and Children

10/3/90  
Date

For the Provider:

  
Child Care Facility Administrator

Westgate Professional Center, 4701 Westgate Blvd  
Suite 502, Austin, TX 78745  
Facility Address

Federal ID# 91-0793881  
Vendor Identification Number

No Number 9/11/85 License Granted  
License Number

10/19/90  
Date

Management Office  
2033 6th Avenue, Suite 1100  
Seattle, WA 98121-2536

  
Director  
Protective Services for Families and Children

10.30.90  
Date