Department of Health and Human Services

OFFICE OF INSPECTOR GENERAL

INCORRECT DISTRIBUTION OF CHILD SUPPORT COLLECTED ON BEHALF OF CHILDREN IN NON-IV-E FOSTER CARE

Management Advisory Report

JUNE GIBBS BROWN
Inspector General

MAY 1994
OEI-04-91-00981

OFFICE OF INSPECTOR GENERAL

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OEI's Atlanta Regional Office staff prepared this report under the direction of Jesse J. Flowers, Regional Inspector General and Christopher Koehler, Deputy Regional Inspector General. Principal OEI staff included:

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Purpose

To describe incorrect distribution of child support collected on behalf of children in State foster care programs which are not funded under Title IV-E of the Social Security Act.

Background

Foster care children that have been removed from homes where income is below Aid to Families with Dependent Children (AFDC) standards is financed through Federal and State funds under Title IV-E of the Social Security Act. Those from families whose incomes are higher or who for other reasons are not covered by Title IV-E, we call "non-IV-E" foster care children. More than 260,000 children nationwide are in non-IV-E foster care. Non-IV-E foster care is funded partially through Title IV-B of the Social Security Act and through State monies. Federal law requires foster care agencies to refer low-income biological parents of foster care children to child support enforcement agencies for services. However, no such requirement exists for higher-income parents of non-IV-E foster care children.

We recently reported on the potential for collecting child support for children in non-IV-E foster care (OEI-04-91-00980). That report showed that child support collections could be increased if States actively pursued child support on behalf of children in non-IV-E foster care. For example, during 1991, child support payments were collected on behalf of 7 percent of our non-weighted sample of non-IV-E foster care children. This collection rate reflects a low emphasis by States on collecting child support. State foster care agencies do not routinely and systematically record basic information on biological parents of non-IV-E foster care children. Further they referred only 29 percent of parents of sampled children to child support enforcement agencies for possible collections. Since few referrals are made, and information on the parents is often inadequate, child support orders are established for only 11 percent of sampled non-IV-E foster care children. Although many parents of children in non-IV-E foster care have financial resources to pay child support on behalf of their child, States are not taking full advantage of this potential source of funds.

When child support collections are made, the money is intended to benefit non-IV-E foster care children and defray costs of non-IV-E foster care programs. While performing our study on the potential for collecting child support from biological parents of children in non-IV-E foster care programs, we observed that some child support collected from biological parents of a foster care child is not distributed to the foster care agency which has custody of the child.

Methodology

We randomly selected nine States with probability proportional to size. We then asked each non-IV-E foster care agency to furnish us a random sample of 70 children

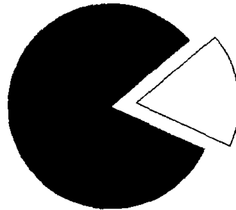
in non-IV-E foster care. Thereafter, using a structured questionnaire, we surveyed State child support agencies to determine (1) extent of child support collected from biological parents of sampled children, and (2) distribution of any collections. Because of the small number of collections reported, we did not project to the universe.

Finding

Child Support Payments Collected From 17 Percent Of The Parents Of Sampled Non-IV-E Foster Care Children Were Incorrectly Distributed

Fifty-two parents in our sample made child support payments in 1991 to help financially support their children in non-IV-E foster care. Payments from nine of the parents (17 percent) were not distributed correctly. Child support collected from three of the nine parents was incorrectly distributed to biological mothers of the foster care children, even though they had lost custody of their children. Likewise, child support collected from six parents was incorrectly distributed to the AFDC program. As shown by the figure below, child support paid by the remaining 43 parents (83 percent) was correctly distributed to foster care agencies.

Distribution Of Child Support Payments



Recipients Of Payments

The distribution errors are partly caused by the recording system. This system, required by the federal Office of Child Support Enforcement, does not adequately record collections made on behalf of children in non-IV-E foster care. Also, current procedures and reporting mechanisms are confusing, adding to the problem of incorrect distribution. States which are making child support collections report that they must operate dual recording systems to adequately track and distribute collections. When the dual systems fail, foster care agencies do not receive needed funds. Finally, the dual systems fail to reflect that collections are intended to offset government expenses.

The lack of adequate tracking and reporting hinders pursuit of child support on behalf of children in non-IV-E foster care. Perhaps more importantly, it limits potential for building parental responsibility. Other States may choose not to pursue child support

on behalf of non-IV-E foster care children because of the difficulties in the distribution system.

Recommendation

The Administration for Children and Families (ACF) should develop a system to help States accurately record and distribute collections to an appropriate foster care agency. That system should include guidance to States for designating (or redesignating) payees.

Agency Comments

ACF agreed with our recommendation but clarified that the problem of incorrectly distributed collections may also be attributed to correctly designating (or redesignating) payees. We accept this explanation and have revised our recommendation accordingly. The full text of their comments are attached.

DEPARTMENT OF HEALTH & HUMAN SERVICES

ADMINISTRATION FOR CHILDREN AND FAMILIE
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Date: March 29, 1994

To: June Gibbs Brown
Inspector General

From: Mary Jo Bane
Assistant Secretary for
Children and Families

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SAIG ✓
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AIG-MP
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Subject: Comments on Office of Inspector General Draft Management Advisory Report, "Incorrect Distribution of Child Support Collected on Behalf of Children in Non-IV-E Foster Care," OEI-04-91-00981

Thank you for the opportunity to comment on our recent meeting and discussion of draft findings and options for recommendations on the above-named Office of Inspector General (OIG) study.

OIG Recommendation

The Administration for Children and Families (ACF) should develop a system to enable States to accurately distribute collections to an appropriate foster care agency.

ACF Comments

The ACF agrees with this recommendation. The State child support enforcement automated systems are now accurately distributing collections to the appropriate foster care agency when that agency has been designated as the payee for collected child support. The problem of incorrectly distributed collections is not a system problem; it is a problem of correctly designating (or redesignating) the payee.

If the State (non-IV-E) foster care agency wishes the state IV-D agency to be its agent for the collection of child support, there are two possible payers--the non-custodial biological parent and the ex-custodial biological parent from whom the child or children were taken. How the State IV-D agency takes action depends on which of these two prospective payers is pursued.

In the case of the non-custodial parent, the foster care agency and the IV-D agency could request a modification of the support order (if it exists) to designate the foster care agency as the recipient rather than the ex-custodial parent. As long as the order specifies the ex-custodial parent (or under different circumstances the AFDC agency) as the payee, the IV-D agency cannot distribute the child support collections elsewhere, unless and until there is a reassignment of support rights to the State foster care agency.

In the case of the ex-custodial parent, the foster care agency in its application to the IV-D agency for child support enforcement services, can designate the foster care agency as the payee. The child support award is determined by the appropriate State or local authority using the established State guidelines for the determination of the amount of the award. In instances where the children are placed in foster care on a temporary basis (because of short-term hospitalization or incarceration of the biological custodial parent, for example), the pursuit of child support from the parent may be inappropriate.

Thank you again for giving us the opportunity to comment on this draft report.

approximately $1,200 per device for devices consisting of "nothing more than a $50 piece of foam rubber."

After reviewing a sample of claims for body jackets, it was determined that 95 percent of the devices claimed under code L0430 did not meet either the construction requirements or the medical purpose of a Medicare-covered body jacket. In many cases, the devices billed were provided primarily for the purpose of keeping patients upright in a wheelchair. The significance of the finding suggests that more than $7 million in 1991 and, perhaps, as much as $13.7 million in 1992 were inappropriately paid for non-legitimate devices billed as L0430.

Although the study did not focus solely on body jackets received by SNF residents, the findings are equally pertinent to the SNF population. The billing of L0430 for SNF residents amounted to $129,668 in 1991 and $384,795 in 1992. Assuming 95 percent were for non-legitimate devices, approximately half a million dollars were incorrectly paid for SNF residents ($123,185 in 1991 and $365,555 in 1992). Significantly, claims for the non-legitimate devices are increasing dramatically by triple digit rates (190 percent from 1991 to 1992 after adjusting for medical cost inflation).

- Misrepresenting the place of service.

Durable medical equipment (DME) is a noncovered item for beneficiaries, unless the DME is provided in the beneficiary's residence. A SNF, like a hospital, is not considered a residence. Based on data from this database and presented in a separate report, "Payment for Durable Medical Equipment Billed During Skilled Nursing Facility Stays," the combined Medicare and resident cost for DME was approximately $10 million in 1992 and over $8 million in 1991.[14] Significantly, 99 percent of the 1991 DME claims incorrectly showed (intentionally or unintentionally) the resident's location when the item was provided. Suppliers stated the place of service was the 'home' or 'other'; however, at the time of the service, the beneficiary was actually residing in a SNF. Had the supplier indicated that the beneficiary resided in a SNF, the carrier would have known to disallow the claim.

In a 1993 survey, we asked carriers to list their concerns about possible abuses in utilization and payment for durable medical equipment and supplies in nursing homes. Some of these concerns reflect suspected or known abuse in areas discussed previously in this report. Others reflect concerns about false billing, improper handling of certificates of medical necessity, and financial arrangements.

Examples of Possible Problems Cited By Carriers Regarding Medical Equipment and Supplies

- *Billing for items not provided or billing different carriers for the same service.*
- *CMN Abuse:*
  - *Falsification of Certificates of Medical Necessity (physician signature, altering effective dates of medical need)*
  - *Coercion by suppliers to obtain physicians' signatures*
  - *CMNs completed by the supplier*
  - *Physicians signing prescriptions without seeing the patient (e.g., renewals requested by supplier in the mail)*
  - *Falsification of diagnosis information (e.g., lymphedema pumps)*
- *Lumbar Sacral Supports used primarily as restraints and offering no therapeutic benefit to the client.*
- *Suppliers billing for equipment either after the equipment has been returned or following the beneficiary's death.*
- *Overutilization of incontinence supplies.*
- *Joint ownership management arrangements between suppliers, physicians, and nursing homes.*
- *Misrepresentation of service.*
- *Misrepresenting the beneficiary's address to receive or increase reimbursement (the beneficiary was in a SNF making the service uncovered).*
- *Suppliers provided more supplies than specified in the CMN or upgraded the equipment prescribed. Additionally, carriers note instances of billing for large volumes of supplies never used (e.g., dressings - quantity 90 when a quantity of 30 is needed).*

We note that some of the problems listed are being, or have been addressed by the new Durable Medical Equipment Regional Carriers (DMERCs)[15]. Carriers were not asked to provide details on the source or extent of their reports of possible fraud and abuse or whether they had referred any cases to the Office of Inspector General.