DEPARTMENT OF HEALTH & HUMAN SERVICES

OFFICE OF INSPECTOR GENERAL
OFFICE OF AUDIT SERVICES

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

January 31, 2003

Report Number: A-02-02-02001

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

Dear Mr. Wing:

Enclosed are two copies of the Department of Health and Human Services (HHS), Office of Inspector General, Office of Audit Services' final report entitled "Review Of The Aid To Families With Dependent Children Overpayment Recoveries Collected By Chemung, Erie, Monroe, Nassau, and Suffolk Counties." A copy of this report will be forwarded to the HHS action official noted below for her review and any action deemed necessary.

Final determination as to actions taken on all matters reported will be made by the HHS action official. 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, 5 U.S.C. 552, as amended by Public Law 104-231, OIG/OAS reports are made available to members of the 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.) As such, within 10 business days after the final report is issued, it will be posted on the world wide web at http://oig.hhs.gov/.

To facilitate identification, please refer to report number A-02-02-02001 in all correspondence relating to this report.

Sincerely yours,

Timothy J. Horgan
Regional Inspector General
for Audit Services

Enclosures – as stated

Direct Reply to HHS Action Official:

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

Department of Health and Human Services

OFFICE OF INSPECTOR GENERAL

REVIEW OF AID TO FAMILIES WITH DEPENDENT CHILDREN OVERPAYMENT RECOVERIES BY THE STATE OF NEW YORK COLLECTED BY CHEMUNG, ERIE, MONROE, NASSAU, AND SUFFOLK COUNTIES

JANET REHNQUIST
Inspector General

JANUARY 2003
A-02-02-02001

Office of Inspector General

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OAS FINDINGS AND OPINIONS

The designation of financial or management practices as questionable or a recommendation for the disallowance of costs incurred or claimed, as well as other conclusions and recommendations in this report, represent the findings and opinions of the HHSIOIGIOAS. Authorized officials of the HHS divisions will make final determination on these matters.

EXECUTIVE SUMMARY

OBJECTIVE

The objective of our review was to determine if the New York State Department of Family Assistance (DFA) properly returned, to the Federal Government, the federal share of Aid to Families with Dependent Children (AFDC) overpayment recoveries collected by Chemung, Erie, Monroe, Nassau, and Suffolk counties during the period December 1, 1996 through April 30, 2002.

SUMMARY OF FINDINGS

Our review showed that DFA did not return to the Federal Government the federal share of AFDC overpayment recoveries collected by Chemung, Erie, Monroe, Nassau, and Suffolk counties after December 1, 1996. We estimate that DFA retained AFDC overpayment recoveries, totaling $3,568,190 (federal share $1,784,095), which were collected during the period December 1, 1996 through April 30, 2002. This occurred because, after the implementation of the Temporary Assistance to Needy Families program, DFA continued to follow AFDC procedures of reporting the overpayment recoveries on quarterly financial reports. However, this reporting mechanism did not result in a credit to the AFDC program. On September 1, 2000, the Administration for Children and Families (ACF) provided clarifying guidance that indicated, for overpayments that occurred prior to October 1, 1996, states were required to return to the Federal Government the federal share of recoveries, regardless of the fiscal year in which the recoveries were collected. After this guidance came out, DFA continued to report overpayments utilizing quarterly financial reports because DFA felt the ACF policy would have created an overly onerous administrative burden.

RECOMMENDATIONS

We recommend that DFA:

Refund $1,784,095 to the Federal Government. This amount represents the estimated federal share of AFDC overpayments recovered by Chemung, Erie, Monroe, Nassau, and Suffolk counties during the period December 1, 1996 through April 30, 2002.

2. Work with ACF officials to ensure that the federal share of AFDC overpayment recoveries, collected by Chemung, Erie, Monroe, Nassau and Suffolk counties subsequent to April 30, 2002 are returned to the Federal Government in a timely manner.

AUDITEE COMMENTS

In comments dated December 18, 2002 (See Appendix B), DFA officials stated that they generally agreed with the report's findings and would repay the $1,784,095. Moreover, although they objected to the recommendation seeking amounts to be repaid to ACF for overpayment recoveries collected after April 2002, DFA officials agreed to work with ACF officials to arrive at an acceptable statewide refund amount.

OIG RESPONSE

We are pleased that DFA agreed to refund $1,784,095 and to work with ACF officials to arrive at an acceptable statewide refund amount for overpayments collected after April 2002.

We also express our appreciation to DFA for the assistance they provided during this review

INTRODUCTION

BACKGROUND

Aid to Families with Dependent Children Program

Under the Aid to Families With Dependent Children (AFDC) program, individuals or families that met eligibility criteria were entitled to receive monetary assistance without regard to time limit and the Federal Government provided an open-ended matching of state expenditures. The Administration for Children and Families (ACF) was the Operating Division within the Department of Health and Human Services responsible for administering the AFDC program. At the state level, the New York State Department of Family Assistance (DFA) (formerly the New York State Department of Social Services), Office of Temporary and Disability Assistance had primary responsibility and oversight of the program but delegated day-to-day responsibilities to the local districts of social services.

Regulations

Title IV-A of the Social Security Act established the AFDC program to encourage the care of dependent children of low-income families in their own homes. In 1996, the Personal Responsibility and Work Opportunity Reconciliation Act replaced the AFDC program with the Temporary Assistance to Needy Families (TANF) program. Under TANF, the open-ended matching of state expenditures was replaced by a capped block grant. Although states had until July 1, 1997 to implement TANF, individual and family entitlement to AFDC benefits was eliminated effective October 1, 1996.

Previous Report

Previously, under Common Identification Number (CIN) A-02-01-02000, we reported the results of our review of AFDC overpayment recoveries collected by the New York City Human Resources Administration (HRA). The HRA and the five upstate counties selected for this review were chosen because they represented approximately 97 percent of New York State's uncollected AFDC overpayment balance as of October 1, 1996.

OBJECTIVE, SCOPE, AND METHODOLOGY

Objective

The objective of our review was to determine if DFA properly returned, to the Federal Government, the federal share of AFDC overpayment recoveries collected by Chemung, Erie, Monroe, Nassau, and Suffolk counties during the period December 1, 1996 through April 30, 2002.

Scope

We reviewed a randomly selected statistical sample of 300 public assistance cases from Chemung, Erie, Monroe, Nassau, and Suffolk counties. Details on our sampling methodology and projection are presented in Appendix A.

We did not perform an in-depth review of the internal control structure of DFA or Chemung, Erie, Monroe, Nassau, and Suffolk counties; however, we reviewed pertinent controls over the recovery and reporting of AFDC overpayments.

Methodology

To accomplish our objective we:

- ✓ Reviewed federal and state laws, regulations, policies and procedures pertaining to both AFDC and TANF;

- ✓ Determined the AFDC overpayment balances for all NYS counties, as of October 1, 1996. We judgmentally selected five upstate counties with the largest AFDC overpayment balances for our review;

- ✓ Met with representatives of Chemung, Erie, Monroe, Nassau, and Suffolk counties to obtain an understanding of the process for recovering AFDC overpayments;

- ✓ Met with representatives of DFA to obtain an understanding of the process for returning the federal share of AFDC overpayment recoveries to the Federal Government;

- ✓ Verified that DFA reported overpayment recoveries, collected by Chemung, Erie, Monroe, Nassau and Suffolk counties for October and November 1996, as a reduction against future federal financial participation (FFP). Therefore our audit period started on December 1, 1996;

- ✓ Worked with state officials to design an application that was used to extract a universe of 19,228 public assistance cases from the December 1996 Upstate Welfare Management System (WMS) Baseline File. The Baseline File is an offline storage media, which contains a snapshot of public assistance cases that had an AFDC overpayment as of December 1996. We tested the accuracy and completeness of the Baseline File.

- ✓ For each of the 300 sample items, we used overpayment information from the on-line WMS to calculate the federal share of recoveries collected by Chemung, Erie, Monroe, Nassau and Suffolk counties during the period December 1, 1996 to

April 30, 2002. We used the lower limit at the 90 percent confidence interval to estimate the federal share of overpayment recoveries to be returned to the Federal Government.

Our review was performed in accordance with generally accepted government auditing standards. Our fieldwork was performed during the period April 15, 2002 to October 28, 2002.

FINDINGS AND RECOMMENDATIONS

Our review showed that DFA did not return, to the Federal Government, the federal share of AFDC overpayment recoveries collected by Chemung, Erie, Monroe, Nassau, and Suffolk counties after December 1, 1996. We estimate that DFA retained AFDC overpayment recoveries, totaling $3,568,190 (federal share $1,784,095), which were collected by Chemung, Erie, Monroe, Nassau, and Suffolk counties during the period December 1, 1996 through April 30, 2002.

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

Occasionally, individuals or families received AFDC benefits to which they were not entitled. These overpayments could have been caused by clerical errors or by recipients providing misinformation. For overpayments associated with cases where the recipient was still receiving financial assistance, future monthly benefits were reduced until the amount owed was recovered. This process was called recoupment. For overpayments associated with cases where the recipient was no longer receiving financial assistance, cash recovery was attempted.

Prior to the implementation of TANF, the mechanism by which DFA returned to the Federal Government the federal share of AFDC overpayment recoveries was to report them on the ACF-231 quarterly expenditure report as a reduction against future FFP in the AFDC program.

When New York implemented its TANF program on December 2, 1996, the ACF-231 was eliminated. Therefore, DFA reported AFDC overpayment recoveries on the ACF-

196 quarterly financial report. Since this form was only intended to detail how funds were spent under TANF, the federal share of AFDC overpayment recoveries collected by Chemung, Erie, Monroe, Nassau, and Suffolk counties, during the period December 1, 1996 to April 30, 2002, was not properly returned to the Federal Government. According to DFA officials, since clear ACF policy instructions did not come out until September 1, 2000, they followed ACF program procedures by applying recoveries to the current TANF period benefit payments. Subsequent to September 1, 2000, they indicated that they continued to use the same AFDC program procedures because, in their opinion, complying with ACF issued policy instructions would have created an overly onerous administrative burden.

We found that 92 of the 300 cases in our sample had overpayment recoveries, totaling $76,978 (federal share $38,489), which were not returned to the Federal Government. Based on our review, we estimate that DFA retained AFDC overpayment recoveries, totaling between $3,568,190 (federal share $1,784,095) and $6,299,346 (federal share $3,149,673), which were collected by Chemung, Erie, Monroe, Nassau, and Suffolk counties during the period December 1, 1996 through April 30, 2002. The midpoint of the confidence interval amounted to $4,933,768 (federal share $2,466,884). The range shown has a 90 percent level of confidence with a sampling precision as a percentage of the midpoint of 27.68 percent. See Appendix A for detailed sample results.

RECOMMENDATIONS

We recommend that DFA:

1. Refund $1,784,095 to the Federal Government. This amount represents the estimated federal share of AFDC overpayments recovered by Chemung, Erie, Monroe, Nassau, and Suffolk counties during the period December 1, 1996 through April 30, 2002.

2. Work with ACF officials to ensure that the federal share of AFDC overpayment recoveries, collected by Chemung, Erie, Monroe, Nassau, and Suffolk counties subsequent to April 30, 2002, are returned to the Federal Government in a timely manner.

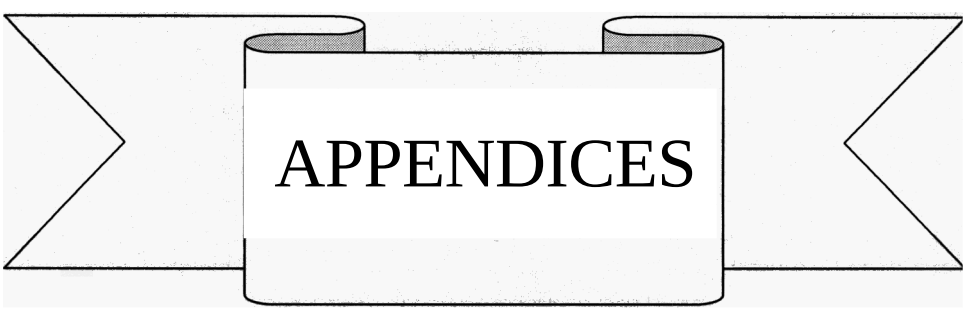
AUDITEE COMMENTS

In comments dated December 18, 2002 (See Appendix B), DFA officials stated that they generally agreed with the report's findings and would repay the $1,784,095. Moreover, although they objected to the recommendation seeking amounts to be repaid to ACF for overpayment recoveries collected after April 2002, DFA officials agreed to work with ACF officials to arrive at an acceptable statewide refund amount.

OIG RESPONSE

We are pleased that DFA agreed to refund $1,784,095 and to work with ACF officials to arrive at an acceptable statewide refund amount for overpayments collected after April 2002.

We also express our appreciation to DFA for the assistance they provided during this review.


APPENDICES

APPENDIX A

STATISTICAL SAMPLING INFORMATION

Simple Random Sample

Population (# Of Cases)	**Sample Size** (# Of Cases)	**Sample Errors** (# Of Cases with Recoveries)	**Sample Errors** (Federal Share Dollars)
19,228	300	92	$38,489

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

Upper Limit	$3,149,673
Point Estimate	$2,466,884
Lower Limit	$1,784,095

APPENDIX B

George E. Pataki
Governor

NEW YORK STATE
OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE
40 NORTH PEARL STREET
ALBANY, NEW YORK 12243-0001
(518) 474-4152
(518) 474-7870 - Fax

Brian J. Wing
Commissioner

December 18, 2002

Re: Common ID Number A-02-02-02001

Dear Mr. Horgan:

This is in response to your letter of November 29, 2002, and draft report entitled, "Review of the Aid to Families with Dependent Children Overpayment Recoveries Collected by Chemung, Erie, Monroe, Nassau, and Suffolk Counties." We generally agree with the report's findings, and recognize that the amount determined refundable, as an AFDC refund is also eligible as a TANF expense, since those payments were originally applied as TANF credits. We agree to repay the $1,784,095, representing the repayment for all upstate districts from December 1996 through April 2002.

We do continue to object to the necessity for any refund calculation beyond April 2002, especially where the amounts found upstate are relatively insignificant, but agree to work with ACF officials to arrive at an acceptable statewide refund amount. We do appreciate the "softening" of the second recommendation in apparent recognition of the administrative burden it places on our Agency, compared to its wording in the "New York City" report.

Thank you for the opportunity to comment.

Sincerely,

Brian J. Wing

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

cc: Jack J. Madigan

ACKNOWLEDGMENTS

This report was prepared under the direction of Timothy J. Horgan (RIGAS). Other principal Office of Audit Services staff who contributed include:

John J. Madigan, *Audit Manager*
Glenn H. Richter, *Senior Auditor*
Steven M. DeGroff, *Auditor*
David Phillips, *Advanced Audit Techniques*

For information or copies of this report, please contact the Office of Inspector General's Public Affairs office at (202) 619-1343.