

**Memorandum**

Date FEB 25 2000  
June Gibbs Brown  
From Inspector General *June G Brown*  
Subject Review of Federal Nonparticipating Foster Care Costs Which the New York State Department of Family Assistance Retroactively Claimed to the Emergency Assistance Program (A-02-98-02002)  
To Olivia A. Golden  
Assistant Secretary  
for Children and Families

This is to alert you to the issuance of our final report on Tuesday, February 29, 2000. A copy of the report is attached. The objective of our review was to determine whether Federal Nonparticipating foster care costs totaling \$13.2 million (Federal share \$6.6 million), which the New York State Department of Family Assistance (NYSDFA) retroactively claimed to the Emergency Assistance (EA) program, were allowable for Federal reimbursement.

This audit was conducted in conjunction with our review of New York State's (NYS) Federal maximization program in which we found significant errors with NYS compliance with Federal requirements regarding the eligibility and allowability of retroactive claims. The audit covered the period April 1, 1996 through December 31, 1997.

Our review showed that of 100 sample cases reviewed, 74 cases contained claims that were not allowable for reimbursement under the EA program because:

- Seventy-two cases contained claims which were unallowable because they included services provided outside the 12-month statutory limit for reimbursement under the EA program.
- One case was missing an authorization form.
- One case contained claims which were unallowable because they included services which were provided after the emergency had ended.

As a result, we identified \$966,083 (Federal share \$483,042) in improper or unallowable claims made to the EA program.

Based on our statistical sample, we are recommending that NYSDFA reduce their retroactive claim by \$7,273,314 (Federal share \$3,636,657) which represents the lower bound of the 90 percent confidence interval.

Page 2 - Olivia A. Golden

In comments dated October 20, 1999 (see appendix B), NYS officials did not contest the report amounts projected as remaining allowed and/or disallowed. However, NYS officials indicated that the State reserves any and all rights to appeal amounts disallowed.

Any questions or comments on any aspect of this memorandum are welcome. 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**

**REVIEW OF FEDERAL NONPARTICIPATING  
FOSTER CARE COSTS WHICH THE  
NEW YORK STATE DEPARTMENT OF FAMILY ASSISTANCE  
RETROACTIVELY CLAIMED TO THE  
EMERGENCY ASSISTANCE PROGRAM**



**JUNE GIBBS BROWN  
Inspector General**

**FEBRUARY 2000  
A-02-98-02002**



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

Our Reference: Common Identification No. A-02-98-02002

Mr. Brian J. Wing  
Commissioner, Office of Temporary And Disability Assistance  
Department of Family Assistance  
40 North Pearl Street  
16<sup>th</sup> Floor  
Albany, New York 12143

Dear Mr. Wing:

Enclosed are two copies of the U.S. Department of Health and Human Services, Office of Inspector General, Office of Audit Services' final report entitled "Review of Federal Nonparticipating Foster Care Costs Which The New York State Department of Family Assistance Retroactively Claimed to the Emergency Assistance Program." A copy of this report will be forwarded to the action official noted below for his/her review and any action deemed necessary.

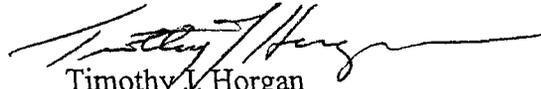
Final determination as to actions taken on all matters reported will be made by the HHS action official named below. We request that you respond to the HHS action official within 30 days from the date of this letter. Your response should present any comments or additional information that you believe may have a bearing on the final determination.

In accordance with the principles of the Freedom of Information Act (Public Law 90-23), OIG reports issued to the Department's grantee 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.)

Page 2 - Mr. Brian J. Wing

To facilitate identification, please refer to Common Identification Number A-02-98-02002 in all correspondence relating to this report.

Sincerely yours,



Timothy J. Horgan  
Regional Inspector General  
for Audit Services

Enclosures - 2

**Direct reply to HHS Action Official:**

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

## EXECUTIVE SUMMARY

### *Background*

The New York State Department of Family Assistance (NYSDFA) (formerly the New York State Department of Social Services) awarded a contract to the New York State Association of Counties (NYSAC) to implement and administer a Federal Revenue Maximization Project (FRMP) designed to generate increased Federal funding. According to the terms of the contract, NYSDFA was to pay NYSAC a fee contingent on the revenue generated under the FRMP.

The NYSAC identified eight distinct areas (called Modules) where increased Federal funding could be generated. Module 3 involved identifying Federal nonparticipating foster care costs and kinship foster care costs that NYSDFA considered eligible for Federal reimbursement under the Title IV-A Emergency Assistance (EA) program and the Title IV-E Foster Care program. State programs which are not supported by Federal funds are known as "Federal Nonparticipating Programs" or FNP. In New York, FNP foster care costs represent maintenance payments for children who live in a foster care setting but are not eligible for assistance under the Federal Title IV-E Foster Care program. Kinship foster care costs represent maintenance payments for foster care children placed with relatives.

To develop Module 3 statewide, NYSAC subcontracted with the Institutes for Health and Human Services (IHHS). The IHHS was responsible for reviewing local social service case records and obtaining documentation to support that the costs were eligible for Federal reimbursement.

Under Module 3, NYSDFA retroactively claimed FNP foster care costs totaling \$13.2 million (Federal share \$6.6 million) to the Title IV-A EA program and \$1.7 million (Federal share \$870,976) to the Title IV-E Foster Care program during the periods April 1, 1996 to December 31, 1997 and July 1, 1996 to December 31, 1997 respectively. In addition, NYSDFA retroactively claimed kinship foster care costs totaling \$92.7 million (Federal share \$46.4 million) to the Title IV-A EA program during the period January 1, 1994 to December 31, 1997. The Administration for Children and Families (ACF) decided to defer the Module 3 claims, rather than pay them, because they were unable to determine if the costs were allowable.

In this report, we discuss the results of our review of FNP foster care costs totaling \$13.2 million (Federal share \$6.6 million) which NYSDFA retroactively claimed to the EA program. In the near future, we will provide you with the results of our review of FNP foster care costs that NYSDFA retroactively claimed to the Title IV-E Foster Care program and our review of kinship foster care costs that NYSDFA retroactively claimed to the EA program.

## ***Objective***

The objective of our review was to determine whether FNP foster care costs, which NYSDFA retroactively claimed to the EA program, were allowable for Federal reimbursement.

## ***Summary of Findings***

Federal reimbursement under the EA program is available for FNP foster care costs provided applicable eligibility criteria are met. The Code of Federal Regulations (CFR) at 45 CFR 206.10 and 45 CFR 233.120 require a written application and authorization for services. Part IV-5214 of the Handbook of Public Assistance Administration further requires that disbursements of assistance payments must be supported by a prior or simultaneous authorization of award. According to officials from ACF, an EA authorization could be used to provide services for a period not to exceed 12 consecutive months. A new authorization would be required to continue EA services beyond the original 12-month period. If claims were made for services provided outside the 12-month authorization period, without a new authorization, the claims for Federal reimbursement would not be allowable.

We reviewed a statistical sample of 100 cases totaling \$1,367,103 (Federal share \$683,552). Our review showed that 74 cases contained claims that were not allowable for Federal reimbursement under the EA program as follows:

- 72 cases contained claims which were unallowable because of they included services provided outside the 12-month statutory limit for reimbursement under the EA program.
- One case was missing an authorization form.
- One case contained claims which were unallowable because they included services which were provided after the emergency had ended.

Based upon our review, we determined that NYSDFA and its contractors failed to establish that the claims were eligible for Federal reimbursement under the EA program. The total amount improperly claimed to the EA program for 74 errors was \$966,083 (Federal share \$483,042). As a result, we estimate NYSDFA claimed between \$7,273,314 (Federal share \$3,636,657) and \$11,275,482 (Federal share \$5,637,741) to the Federal Government for FNP foster care costs that were unallowable for funding under the EA program. The midpoint of the confidence interval amounted to \$9,274,398 (Federal share \$4,637,199).

## ***Recommendation***

Since ACF deferred these claims, we recommend that NYSDFA reduce their retroactive claim by \$7,273,314 (Federal share \$3,636,657) which represents the lower bound of the 90 percent confidence interval.

## ***Auditee Comments***

In comments dated October 20, 1999 (see Appendix B), NYS officials did not contest the report amounts projected as remaining allowed and/or disallowed. However, NYS will not reduce its claim at this time, pending final settlement of all amounts related to the Title IV-A claims.

In addition, NYS officials indicated that the State reserves its right to appeal amounts disallowed and contends that the Handbook of Public Assistance Administration can not be used as the basis for disallowing claims. Also, the State officials contend that the draft report adopted an interpretation which unreasonably circumscribes the duration of EA authorizations.

Lastly, NYS officials provided additional documentation for consideration which addresses certain errors that were reported as other deficiencies in our draft report and requested that we include language in the final report related to processes and procedures used by IHHS in developing the claims.

## ***OIG Comments***

We evaluated all additional information that was provided to us and we adjusted this final report to reflect the additional information and certain needed adjustments where warranted.

We disagree with the State's position regarding our reference to the Handbook of Public Assistance Administration and our interpretation of the duration of EA authorizations. However, we will forward NYS's concerns for ACF review and resolution.

## ACRONYM LIST

**ACF.....Administration for Children and Families**  
**NYSDFA.....New York State Department of Family Assistance**  
**NYSAC.....New-York State Association of Counties**  
**IHHS.....Institutes for Health and Human Services**  
**FRMP.....Federal Revenue Maximization Project**  
**FNP.....Federal Nonparticipating Programs**  
**AFDC.....Aid to Families With Dependent Children**  
**EA.....Emergency Assistance**  
**TANF.....Temporary Assistance for Needy Families**  
**CFR.....Code of Federal Regulations**  
**DAB.....Departmental Appeals Board**

# **TABLE OF CONTENTS**

---

<b>EXECUTIVE SUMMARY .....</b>	<b>i</b>
<b>INTRODUCTION .....</b>	<b>1</b>
<b>Background .....</b>	<b>1</b>
<b>Objectives, Scope and Methodology .....</b>	<b>3</b>
<b>FINDINGS AND RECOMMENDATION .....</b>	<b>4</b>
<b>Authorization of Services .....</b>	<b>5</b>
<b>Other Deficiencies .....</b>	<b>6</b>
<b>Conclusions and Recommendation .....</b>	<b>6</b>
<b>NYS Comments .....</b>	<b>7</b>
<b>OIG Comments .....</b>	<b>7</b>

## **APPENDICES**

**A- Statistical Sampling Methodology**

**B- State Comments**

## INTRODUCTION

### *Background*

The Emergency Assistance (EA) program, established by the 1967 amendments to the Social Security Act (Public Law 90-248) as an optional supplement to the Aid to Families with Dependent Children (AFDC) program, was a federally sponsored State-administered program. The purpose of the EA program was to provide temporary financial assistance and supportive services to eligible families experiencing an emergency. On August 22, 1996, the Temporary Assistance for Needy Families (TANF) program replaced the former AFDC program. Under TANF, States receive a block grant allocation, and there is no longer a Federal entitlement.

- Section 233.120 of 45 CFR states that EA services can only be provided to or on behalf of a needy child under the age of 21 and any other member of the household in which: (1) such child is living (or has been living in the prior 6 months) with a specified relative, (2) the child is without available resources to meet the emergency, (3) the assistance is necessary to avoid destitution of such child or to provide living arrangements in a home for such child, and (4) the destitution or need for living arrangements did not arise because such child or relative refused without good cause to accept employment or training for employment.

In addition, 45 CFR 206.10 and 45 CFR 233.120 require a written application and authorization for services. Part IV-5214 of the Handbook of Public Assistance Administration further requires that disbursements of assistance payments must be supported by a prior or simultaneous authorization of award.

State programs which are not supported by Federal funds are known as "Federal Nonparticipating Programs" or FNP. In New York, FNP foster care costs represent maintenance payments for children who live in a foster care setting but are not eligible for assistance under the Federal Title IV-E Foster Care program. Maintenance payments cover the cost of food, shelter, a yearly clothing allowance, daily supervision and school supplies. In addition, maintenance payments can cover costs for diapers, special furniture and equipment, day and summer camps and special attire for proms, religious observances and graduations. The ACF has taken the position that, provided applicable eligibility criteria are met, FNP foster care costs are allowable for Federal reimbursement under the EA program. These costs may be retroactively claimed within the 2 year filing deadline established under section 1132 of the Social Security Act.

The NYSDFA awarded a contract to NYSAC, a not-for-profit corporation, to implement and administer an FRMP designed to generate increased Federal funding. According to the terms of the contract, the NYSDFA was to pay NYSAC a fee contingent on the revenue generated under

the FRMP. The NYSAC identified eight distinct areas (called Modules) where increased Federal funding could be generated. Module 3 involved identifying costs that NYSDFA considered eligible for Federal reimbursement under the Title IV-A EA program and the Title IV-E Foster Care program.

<b>COSTS CLAIMED UNDER FRMP MODULE 3</b>					
<u>OAS Common Identification Number</u>	<u>Type of Claim</u>	<u>Retroactive Transfer To</u>	<u>Gross Claim</u>	<u>Federal Share</u>	<u>Period of Claims</u>
A-02-98-02002	FNP Foster Care	Title IV-A (EA)	\$13.2 million	\$6.6 million	4/1/96 - 12/31/97
A-02-98-02004	FNP Foster Care	Title IV-E (Foster Care)	\$1.7 million	\$870,976	7/1/96 - 12/31/97
A-02-99-02001	Kinship Foster Care	Title IV-A (EA)	\$92.7 million	\$46.4	1/1/94 - 12/31/97 million

To develop this module statewide, NYSAC subcontracted with IHHS. According to the terms of the contract, NYSAC was to pay IHHS a percentage of the contingent fee earned under the FRMP. The IHHS reviewed local social service case records and obtained documentation to support that the Module 3 costs were eligible for Federal reimbursement.

In this report, we discuss the results of our review of FNP foster care costs previously incurred by the State during the period July 1, 1994 through September 30, 1996. These expenditures, which were never previously submitted for Federal reimbursement, totaled \$13.2 million (\$6.6 million Federal share). Based upon work performed by IHHS, NYSDFA retroactively claimed these costs to the EA program on the ACF-231 quarterly expenditure reports filed for the periods April 1, 1996 to December 31, 1997. The ACF decided to defer the claims, rather than pay them, because they were unable to determine if the costs were allowable.

## ***Objectives, Scope And Methodology***

The primary objective of our review was to determine whether FNP foster care costs, which NYS DFA retroactively claimed to the EA program, were allowable for Federal reimbursement.

To accomplish our objective, we:

- Met with ACF officials to discuss the current status of retroactive EA claims.
- Examined applicable EA regulations, ACF action transmittals and information memorandums, State administrative directives, the State plan, and State regulations.
- Met with representatives of the State, county and IHHS to obtain an understanding of the following:
  - A. The State's procedures for review and approval of retroactive EA claims.
  - B. The IHHS responsibilities for the development of the retroactive EA claims as identified by the terms of its subcontract.
- Consulted with ACF officials to obtain clarification of the regulations.
- Obtained detailed claims rosters and case files for FNP foster care costs incurred during the period July 1, 1994 through September 30, 1996 and claimed to the EA program for the period April 1, 1996 to December 31, 1997.
- Reconciled the detailed claims rosters to the FNP foster care claims per the ACF-231 quarterly expenditure reports.
- Used simple random sampling techniques to select a sample of 100 cases totaling \$1,367,103 (Federal share \$683,552) from the universe of FNP foster care costs which were retroactively claimed to the EA program. We are reporting the claim adjustment projected from this sample at the lower bound of the 90 percent confidence interval. Appendix A contains the details of our sampling methodology.
- For each of the 100 sample cases selected we:
  - A. Reviewed documentation contained in IHHS's case files to determine if claimed costs were allowable for Federal reimbursement under the EA program.
  - B. For each deficiency identified, we reviewed local social service district case files to determine if additional support for EA eligibility existed.

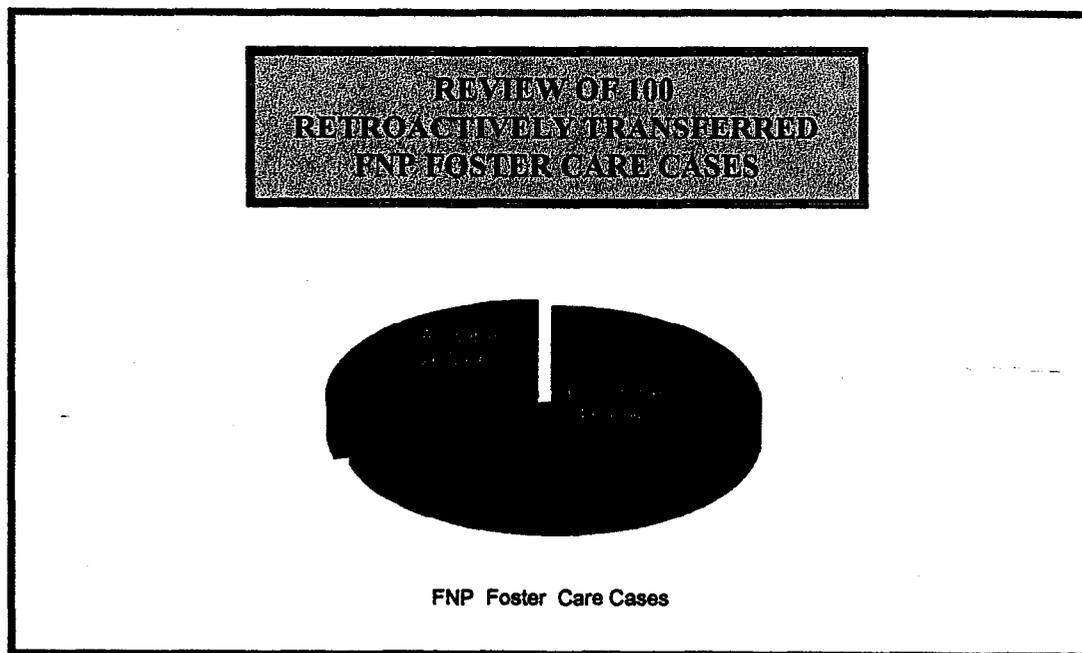
- Determined if rate computations were in accordance with approved State methodology.

Our review was performed in accordance with generally accepted standards for governmental auditing. However, we did not rely on the existing system of internal controls over the submission of retroactive EA claims. Rather, we relied upon substantive audit testing. Our field work was performed during the period July 1998 to March 1999.

## FINDINGS AND RECOMMENDATION

Our review disclosed that the preponderance of retroactively claimed FNP foster care costs were not allowable for Federal reimbursement because they did not meet EA eligibility criteria. As a result, we estimate NYSDFA claimed \$7,273,314 (Federal share \$3,636,657) to the Federal Government for FNP foster care costs that were not allowable for funding under the EA program.

The following graph summarizes the nature and extent of errors found during our review of IHHS and local district case files:



Our review showed that 74 cases contained claims that were not allowable for Federal reimbursement under the EA program as follows:

- 72 cases contained claims which were unallowable because they included services provided outside the 12-month statutory limit for reimbursement under the EA program.
- One case was missing an authorization form.
- One case contained claims which were unallowable because they included services which were provided after the emergency had ended.

The total amount improperly claimed to the EA program for these 74 cases was \$966,083 (Federal share \$483,042).

### **Authorization of Services**

Based on our review, we determined that 72 of the 100 sample cases contained claims which were unallowable for Federal reimbursement because they included services which were provided outside the 12-month service period. This deficiency constitutes the largest and most significant deficiency with respect to allowability that we found. In addition, we determined that one sample claim was missing an authorization form altogether.

**73 Sample Cases Contained Claims Which Were Unallowable Because Of Deficiencies Related To The Authorization Of Services.**

According to 45 CFR 233.120(b)(3):

“Federal matching is available only for emergency assistance which the State authorizes during one period of 30 consecutive days in any 12 consecutive months, including payments which are to meet needs which arose before such 30-day period or are for such needs as rent which extend beyond the 30-day period”.

In addition, Part IV-5214 of the Handbook of Public Assistance Administration states that all disbursements of assistance payments must be supported by a prior (or simultaneous) authorization of award. And, House Committee Report Number 544, 90<sup>th</sup> Congress, 1<sup>st</sup> Session 109 (1967) states that “the payment of services must be necessary in order to meet an immediate need that would otherwise not be met.”

According to ACF, an EA authorization could be used to provide services for a period not to exceed 12 consecutive months. A new authorization was required to continue EA services beyond the original 12-month period. Claims made for services provided outside this 12-month

service period, without a new authorization, are not allowable. However, NYSDFA has interpreted the Federal regulations to mean that an authorization for EA services can be used to claim the cost of services provided until the emergency is alleviated, even if the emergency extends beyond 12 months.

Under Module 3, the State identified cases that already had existing EA authorizations which were completed before the FNP foster care services were provided. The IHHS was instructed to link the FNP foster care costs to that authorization (emergency). Once this link was made, all costs associated with that emergency, even costs which extended beyond the 12-month period, were to be included in the claim. In accordance with ACF's guidance, we allowed claims for services provided for 12 months subsequent to that authorization and questioned all costs claimed outside this period.

For cases which did not have an existing EA authorization form, IHHS was responsible for securing this authorization from local district officials. Since IHHS was attempting to retroactively document eligibility, these authorization forms were often signed by local district officials from 6 months to 2 years after the FNP foster care services were provided. For cases where IHHS secured the authorization from local district officials subsequent to the period that the costs were incurred, we allowed 12 months prior to the authorization date and questioned all costs claimed outside this period.

After performing a review of local district records, we determined that 72 of the 100 sample cases contained claims which were unallowable for Federal reimbursement because they included services which were provided outside the 12-month service period. In addition, we determined that one sample case was missing an authorization form altogether. The total amount improperly claimed to the EA program for these 73 cases was \$965,996 (Federal share \$482,998).

### **Other Deficiencies**

Our review of the claims revealed that one case contained claims which were unallowable because they included services which were provided after the emergency had ended. In accordance with 45 CFR 233.120 Federal reimbursement is not available in situations where an emergency condition cannot be substantiated. We determined that \$87 (Federal share \$44) was claimed to the Federal Government for this case.

### ***Conclusions And Recommendation***

Based upon our review, we determined that NYSDFA and its contractors failed to establish that the preponderance of retroactively claimed FNP foster care costs were eligible for Federal reimbursement under the EA program. The total amount improperly claimed to the Title IV-A program for 74 errors was \$966,083 (Federal share \$483,042).

Based on our results, we estimate NYSDFA claimed between \$7,273,314 (Federal share \$3,636,657) and \$11,275,482 (Federal share \$5,637,741) to the Federal Government for FNP foster care costs that were unallowable for funding under the EA program. The midpoint of the confidence interval amounted to \$9,274,398 (Federal share \$4,637,199). Our tests were based on simple random sampling techniques and the ranges shown have a 90 percent level of confidence with a sampling precision as a percentage of the midpoint of 21.58 percent. We are reporting the claim adjustment from the sample at the lower bound of the 90 percent confidence interval.

Since ACF deferred these claims, we recommend that NYSDFA reduce their retroactive claim by \$7,273,314 (Federal share \$3,636,657) which represents the lower bound of the 90 percent confidence interval.

### ***NYS Comments***

In comments dated October 20, 1999, NYS officials did not contest the reported amounts projected as remaining allowed and/or disallowed. However, NYS will not reduce its claim at this time, pending final settlement of all amounts related to the Title IV-A claims. The NYS officials indicated that the State reserves any and all rights to appeal amounts disallowed and continues to maintain its historic position that the Handbook of Public Assistance Administration cannot be used as the basis for disallowing the types of claims which are currently in dispute. Additionally, the State officials contend that the draft audit report adopts an interpretation which unreasonably circumscribes the duration of EA authorizations.

The NYS officials also requested that we include a statement in the final report that we generally found the processes and procedures used by IHHS to be acceptable.

Finally, NYS officials provided additional documentation for consideration which addresses certain errors that were reported as other deficiencies in our draft report. The complete text of the NYS comments is presented as Appendix B to this report.

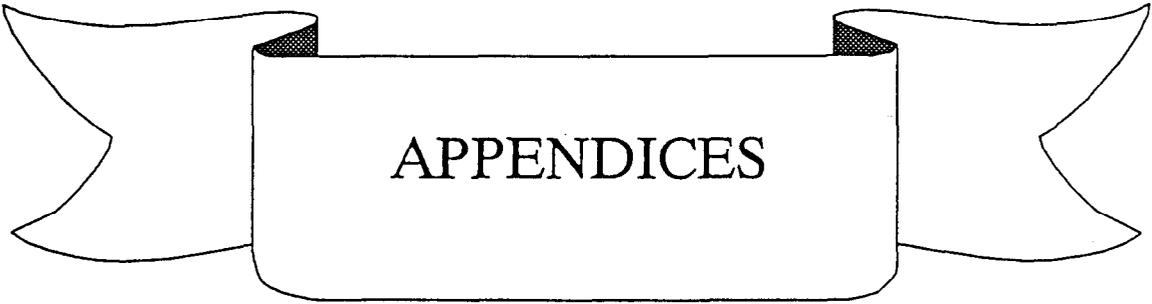
### ***OIG Comments***

We evaluated all additional information that was provided to us and we adjusted this final report to reflect the additional information and certain needed adjustments where warranted.

We disagree with NYS's request to include a statement in the final report that we generally found the processes and procedures of IHHS to be acceptable. Our report outlines the State's instructions that IHHS followed in developing these claims. Specifically, that for cases identified as having existing or retroactive authorizations, the costs associated with the emergency, even costs which extended beyond the 12-month authorization period, were to be included in the claim. We did not accept this methodology for developing the claims because according to ACF, an EA authorization could be used to provide services for a period not to exceed 12 consecutive months. Our report clearly outlines ACF's interpretation and states that

for 74 sample cases questioned, IHHS's case file documentation showed 72 cases included claims for costs beyond the 12-month period, one case was missing an authorization form, and one case contained claims for services that were provided after the emergency ended. For the remaining 26 sample cases, we found that claims submitted were within the 12-month authorization period.

We disagree with the State's position regarding our reference to the Handbook of Public Assistance Administration and our interpretation of the duration of EA authorizations. However, we will forward NYS's concerns for ACF review and resolution.



APPENDICES

APPENDIX A

**STATISTICAL SAMPLING METHODOLOGY**

<b>Objective:</b>	To determine if Federal nonparticipating foster care costs, which the New York State Department of Family Assistance (NYSDFA) retroactively claimed to the Title IV-A emergency assistance (EA) program, were allowable for Federal reimbursement.
<b>Population:</b>	The universe consisted of 960 FNP foster care cases for which NYSDFA retroactively claimed \$13.2 million (\$6.6 million Federal share) during the period April 1, 1996 to December 31, 1997.
<b>Sampling Unit:</b>	The sampling unit was an individual case for which FNP foster care costs were retroactively claimed to the EA program.
<b>Sampling Design:</b>	A simple random sample was used.
<b>Sample Size:</b>	We selected a sample of 100 cases representing \$1,367,103 (\$683,552 Federal share).
<b>Source of Random Numbers:</b>	Department of Health and Human Services, Office of Inspector General, Office of Audit Services Random Number Generator.
<b>Estimation Methodology:</b>	<p>For a sampling unit in error, the amount of the error was the cost claimed by NYSDFA to the Title IV-A EA program.</p> <p>Using the Department of Health and Human Services, Office of Inspector General, Office of Audit Services Variables Appraisal Program, we estimated the disallowance for cases that contained claims that were not allowable for Federal reimbursement under the EA program.</p>



OFFICE OF AUDIT  
NEW YORK REGIONAL OFFICE  
OFFICE OF AUDIT  
NEW YORK REGIONAL OFFICE  
OCT 25 1999  
RECEIVED  
RECEIVED

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

October 20, 1999

Re: A-02-98-02002

Dear Mr. Horgan:

This is in response to your September 13, 1999 letter related to the above referenced draft report entitled "Review of Federal Nonparticipating Foster Care Costs which the New York State Department of Family Assistance Retroactively Claimed to the Emergency Assistance Program." After reviewing the draft report, and meeting with John Madigan and Glenn Richter, of your staff, we offer the following comments.

We do not plan to contest the reported amounts projected as remaining allowed and/or disallowed. We will not reduce our claims at this time, pending final settlement of all amounts related to the Title IV-A claims. In the past, on similar reviews, the Administration for Children and Families (ACF) has issued a disallowance letter to us. We reserve any and all rights to appeal amounts disallowed. The State continues to maintain its historic position that the Handbook of Public Assistance Administration cannot be used as the basis for disallowing the types of claims which are currently in dispute. Additionally, the State contends that the draft audit report adopts an interpretation which unreasonably circumscribes the duration of EAF authorizations.

At this time, we do not need to have the formal exit conference, offered by your staff.

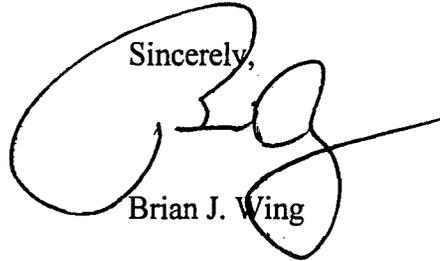
We understand that certain findings and amounts projected as disallowances will be reduced slightly, as a result of agreements made with respect to allowed documentation. In addition, one finding related to "Three cases ...not supported by an EA application" will be stricken from the final report. We were advised that your final report will reflect the revised findings and amounts allowed or disallowed.

*"providing temporary assistance for permanent change"*

We also note that related to your review of the documentation found in contractor (IHHS) records supporting the EAF eligibility of cases claimed, 99 of 100 case folders reviewed contained acceptable applications and authorizations to support the allowance of some EAF claiming. Generally, the draft audit report found the processes and procedures used by IHHS to be acceptable. Will you please include a statement to that effect in the final audit report.

We look forward to settling these, and all remaining EAF issues and amounts claimed, as quickly as possible. Thank you for the opportunity to respond to this draft report.

Sincerely,

A handwritten signature in black ink, appearing to read "Brian J. Wing", written over the word "Sincerely,".

Brian J. Wing

Mr. Timothy Horgan  
Regional Inspector General  
For Audit Services  
Department of Health and Human Services  
Office of Inspector General  
Jacob K. Javits Federal Building  
26 Federal Plaza  
New York, NY 10278