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COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON D.C. 20548
Parsons
GGM

August 17, 1981

The Honorable Richard S. Schweiker
The Secretary of Health and
Human Services

Dear Mr. Secretary:

This Office is greatly concerned with the Department of Health and Human Services' (HHS) relationship with the State of New York under the Departmental Federal Assistance Financing System (DFAFS). A serious condition in your grant finance system has permitted the State of New York to withdraw cash from the United States in excess of that which it is authorized to receive at the time withdrawn.

In April 1980, GAO brought certain irregularities in the DFAFS New York State account to the attention of HHS officials. In May 1980, HHS officials notified New York that its letter of credit, the payment mechanism for public assistance and other programs, was being reduced in order to offset cash overdraws, and did in fact reduce the letter of credit. Subsequently, New York sued the Secretary for restoration of the letter of credit and on July 11, 1980, the United States District Court in New York vs. Harris, D.D.C., Civil No. 80-1265, ordered the letter of credit to be restored in full on grounds that HHS had not provided due process to New York State. Following the court order the letter of credit was restored by HHS to the \$410 million monthly level and is still set at that figure.

The decision of the court in New York vs. Harris rested strictly upon the failure of HHS to provide New York with due process before the State's letter of credit was reduced. It did not settle the questions concerning the ultimate rights to the dollars in dispute.

Since it appears that a serious danger exists in that New York could continue to withdraw cash in excess of amounts legally payable under the DFAFS system, we believe it is essential for the Department to take aggressive action to identify and collect any overpayments and prevent further overpayments to the State. We would also remind you that responsible certifying officers may be held personally accountable and required to make good to the United States any illegal, improper, and incorrect certifications they make, as well as any payment prohibited by law which does not represent a legal obligation under the appropriation or the fund involved. (31 U.S.C. 82c)

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On March 24, 1981, your Assistant Secretary of Management and Budget gave us the following status of the cumulative overdraws on the DFAFS for the New York State public assistance programs as of December 31, 1980:

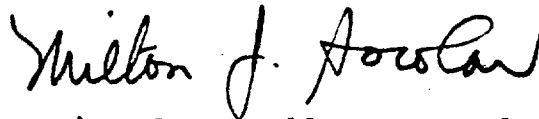
<u>Program</u>	<u>Fiscal 1978</u>	<u>Fiscal 1979</u>	<u>Fiscal 1980</u>	<u>Total</u>
----- (millions) -----				
Medicaid	\$ 3.6	\$250.9	\$ 1.5	\$256.0
Aid to Families with Dependent Children (AFDC)	16.5	77.9	64.7	159.1
Title XX-Social Services	.3	1.2	1.7	3.2
Child Support Enforcement	-	2.5	1.1	3.6
Work Incentive (WIN)	.1	.2	-	.3
Emergency Assistance	<u>-</u>	<u>1.6</u>	<u>-</u>	<u>1.6</u>
	<u>\$20.5</u>	<u>\$334.3</u>	<u>\$69.0</u>	<u>\$423.8</u>

At present, the HHS officials cannot identify how much of the overdraws represent overpayments. These officials also informed us that the reason for this is that many of the accounting records in New York State accounts and the DFAFS do not agree. Consequently, these officials have recently formed a task force which will be responsible for reconciling the records between the DFAFS and New York State accounts. A July 22, 1981, agreement between HHS and New York, among other items, established a September 30, 1981, date for complete reconciliation of records, reserved HHS's rights to recover funds, and set out a procedure for resolving the disputed amounts which New York agreed will provide due process.

We are continuing our review of this situation and will report to you fully upon the completion of our work. In the meantime, we would like HHS's responsible agency officials to make

every effort to ensure that the situation in the grant finance system is corrected and that steps are taken that will prevent a similar situation occurring again.

Sincerely yours,



Acting Comptroller General
of the United States

bc: Mr. Campbell, AFMD
Mr. Egan, AFMD
Mr. Adair, AFMD
Mr. Oleyar, AFMD
Ms. Shute, AFMD
Mr. Bulger, Albany
Mr. McQuillan, New York
Mr. Coleman, AFMD
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Index & Files