SOCIAL SECURITY

MEMORANDUM

Date: May 26, 2009 Refer To:

To: The Commissioner

From: Inspector General

Subject: Quick Response Evaluation: Florida's Title IV-E Waiver May Impact Supplemental Security Income Benefits (A-04-09-19091)

The attached final report presents the results of our review. Our objective was to determine whether a Title IV-E waiver granted to the State of Florida by the U.S. Department of Health and Human Services hindered the Social Security Administration's ability to accurately determine the amount of Supplemental Security Income payments due children in Florida's foster care program.

If you wish to discuss the final report, please call me or have your staff contact Steven L. Schaeffer, Assistant Inspector General for Audit, at (410) 965-9700.

Patrick P. O'Carroll, Jr.

Attachment

QUICK RESPONSE EVALUATION

Florida's Title IV-E Waiver May Impact Supplemental Security Income Benefits

A-04-09-19091

May 2009

Mission

By conducting independent and objective audits, evaluations and investigations, we inspire public confidence in the integrity and security of SSA's programs and operations and protect them against fraud, waste and abuse. We provide timely, useful and reliable information and advice to Administration officials, Congress and the public.

Authority

The Inspector General Act created independent audit and investigative units, called the Office of Inspector General (OIG). The mission of the OIG, as spelled out in the Act, is to:

- Conduct and supervise independent and objective audits and investigations relating to agency programs and operations.
- Promote economy, effectiveness, and efficiency within the agency.
- Prevent and detect fraud, waste, and abuse in agency programs and operations.
- Review and make recommendations regarding existing and proposed legislation and regulations relating to agency programs and operations.
- Keep the agency head and the Congress fully and currently informed of problems in agency programs and operations.

To ensure objectivity, the IG Act empowers the IG with:

- Independence to determine what reviews to perform.
- Access to all information necessary for the reviews.
- Authority to publish findings and recommendations based on the reviews.

Vision

We strive for continual improvement in SSA's programs, operations and management by proactively seeking new ways to prevent and deter fraud, waste and abuse. We commit to integrity and excellence by supporting an environment that provides a valuable public service while encouraging employee development and retention and fostering diversity and innovation.

OBJECTIVE

Our objective was to determine whether a Title IV-E waiver granted to the State of Florida by the U.S. Department of Health and Human Services (HHS) hindered the Social Security Administration's (SSA) ability to accurately determine the amount of Supplemental Security Income (SSI) payments due children in Florida's foster care program.

BACKGROUND

Supplemental Security Income and Foster Care Payments

Title XVI of the *Social Security Act* provides for SSI payments to aged, blind, or disabled individuals who meet certain requirements and do not have income or resources that exceed Federal limits. The purpose of SSI is to provide a minimum level of income to qualified individuals. Children, as well as adults, may be eligible for SSI payments.

On occasion, children receiving SSI payments are placed in a State's foster care program. Florida's foster care settings include licensed foster homes, residential facilities, and homes of relatives or other approved individuals. Florida's Department of Children and Families (DCF) reimburses foster care providers, on a monthly basis, for certain expenses incurred to care for a child. These monthly "maintenance payments" assist with the cost of providing food, clothing, shelter, daily supervision, school supplies, and other care-related expenses.

Title IV-E of the *Social Security Act*[1] authorizes the foster care program and provides foster care funding for eligible children.[2] When a child is "Title IV-E eligible,"[3] the State may be entitled to receive Federal funds that help offset a portion of the child's foster care maintenance payments.

[1] The *Social Security Act* § 470 *et seq.,* 42 United States Code (U.S.C.) § 670 *et seq.*

[2] The Foster Care Program is administered by the HHS, Administration for Children and Families.

[3] To be Title IV-E eligible, a child must meet the following criteria: (1) was removed from their home and placed in an approved foster care setting; (2) is in a family that receives, or is eligible to receive, financial assistance from Aid to Families with Dependent Children; (3) lived with a parent or relative 6 months before removal from their home; (4) has family or self-income below federally established poverty levels; and (5) was deprived of one parent either because of death, separation, abandonment, incapacity or disability, unemployment, or under-employment. The *Social Security Act* § 472; 42 U.S.C. § 672; Title 45 Code of Federal Regulations (C.F.R.) § 1356.21.

Title IV-E Waiver

Effective October 2006, HHS, Administration for Children and Families, granted Florida a 5-year waiver that allowed flexibility in using Title IV-E Federal funds. The waiver, categorized as a "Flexible Funding/Capped IV-E Allocations Demonstration Project,"[4] allows Title IV-E funds to be used for any child welfare purpose, instead of being restricted to out-of-home care, as generally required under Federal law.[5] Under the waiver, Florida may spend Title IV-E funds to establish or expand services that protect children from abuse and neglect, preserve families, and promote permanent family environments. Flexible use of Title IV-E funds is expected to improve family services, thereby reducing or preventing foster care placements. From October 2007 through September 2008, Florida DCF averaged about 24,000 children a month in some type of foster care setting.

The waiver also exempts Florida from reporting expenditures in detail, which was previously required for Title IV-E reimbursement. Rather, under the waiver, funding is calculated on a base-year amount with annual increases.[6] The waiver allows States to receive Title IV-E funding up-front rather than as reimbursement for expenses. However, the waiver agreement requires cost-neutrality to the Government, meaning States cannot receive more in Title IV-E reimbursement than they would have received in the absence of the waiver.[7] Table 1 details Florida's Title IV-E funding during the waiver period.

Table 1: HHS Funding for Florida's IV-E Waiver Project

Fiscal Year	Title IV-E Funding
2007	$144,936,222
2008	149,284,309[8]
2009	153,762,838
2010	158,375,723
2011	163,126,995
Total	**$769,486,086**

[4] Florida is among five States participating in the Flexible Funding/Capped IV-E Allocations Demonstration Project. Indiana, Ohio, and Oregon are operating under a 5-year extension of the Title IV-E waiver, while California and Florida are operating under their original waiver agreement. North Carolina terminated its waiver extension in February 2008 because of difficulties in maintaining cost neutrality.

[5] The *Social Security Act* § 472(a)(1), 42 U.S.C. § 672(a)(1); Title 45 C.F.R § 1356.21(k).

[6] During the 5-year waiver period, Florida will receive Federal funding based on what it would have received under the Title IV-E rules for the Fiscal Year ended September 30, 2005—with 3 percent annual increases. The amounts were based on funding for foster care maintenance and administrative costs.

[7] The *Social Security Act* § 1130(g), 42 U.S.C. § 1320a-9(g).

[8] According to HHS data, for Fiscal Year 2008, DCF expended about $68.3 million in Title IV-E waiver funds for foster care maintenance payments (room and board), prevention, and other in-home services.

Effect of Foster Care Payments on Supplemental Security Income Payments

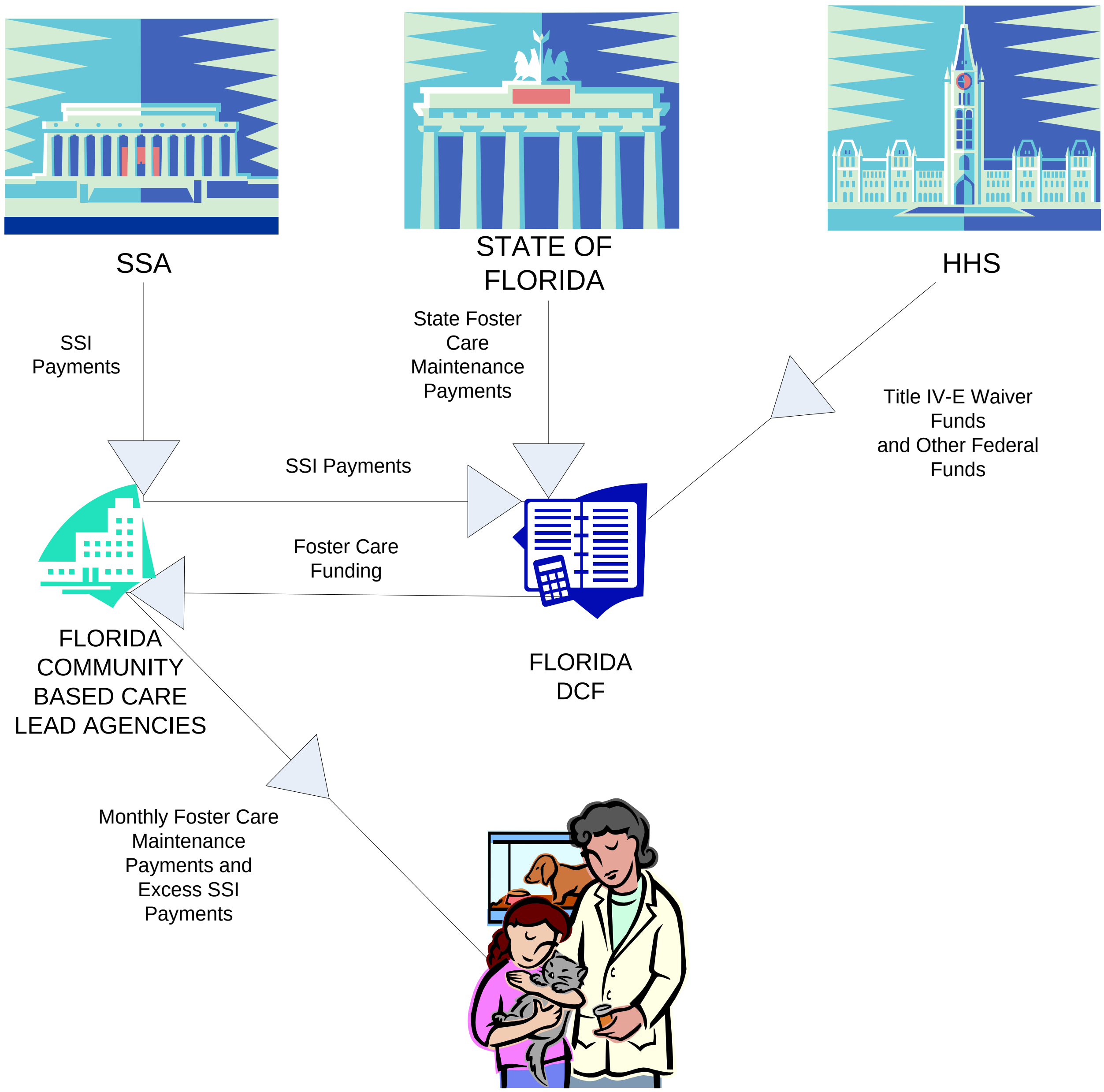
SSI is a needs-based program in which eligibility for payments is based partly on the amount of income and resources available to the claimant. As such, SSA must consider all resources when determining a claimant's eligibility and the amount of SSI payments.[9] With foster care payments, the source of the payment is also a factor in determining its effect on SSI payments. In States without waivers, SSA deems Title IV-E benefits as income. Therefore, a foster care child receiving both SSI and Title IV-E payments would have their SSI payment reduced dollar-for-dollar by the amount of Title IV-E funds.

If an individual is eligible for both payments, States are not required to apply for SSI <u>and</u> Title IV-E funds. Rather, States may elect to use their own funds and <u>not</u> request Title IV-E reimbursement of foster care maintenance payments. In this situation**,** SSA treats State-funded benefits as "assistance," not "income" to the SSI recipient. Accordingly, no offset occurs, and the foster care child receives full SSI payments (assuming no other reductions or offsets apply).[10] A Florida DCF official estimated that DCF receives about $10 million annually from SSI payments. The following flowchart illustrates SSI, State, Federal, and Title IV-E payments to Florida's foster care program.

[9] Substantial income or resources may result in the reduction of SSI payments or even negate eligibility. The maximum monthly SSI payment for 2008 was $637 for an individual and $956 for a couple.

[10] Although SSA may remit full SSI payments, ultimately, the child may not receive the entire amount. States are permitted to use SSI payments to offset their foster care maintenance costs. Accordingly, the child would only receive SSI payments that exceed the State-funded foster care maintenance payments.

Flowchart 1: SSI, State, and Federal Funds to Florida's Foster Care Program



Results of Review

SSA's ability to determine the amount of payments due certain SSI recipients was complicated by Florida's Title IV-E waiver. Additionally, changes in Florida's accounting methods, which it made as a result of the waiver, provide less detailed information regarding the source of funds used to pay SSI recipients' foster care maintenance costs. This information is critical for SSA to determine SSI eligibility and to pay correct benefits. SSA's Atlanta Regional Office (ARO) and the Office of Income Security Programs (OISP), in the Office of the Deputy Commissioner for Retirement and Disability Policy, researched the issue. Ultimately, the ARO issued guidance to its field offices instructing them, in each case, to verify the foster care funding source with Florida DCF. If Florida DCF asserted that State funds reimbursed the child's foster care maintenance costs, rather than Title IV-E funds, SSA would not consider the benefits as income. Accordingly, the foster child's SSI benefits would not be subject to offset.

We believe Florida's accounting system does not provide enough detail to confirm State funds, rather than Title IV-E funds, are being used for foster care maintenance payments for those children also receiving SSI payments. As such, the State could be receiving Federal funds from two sources for the same purpose.

We acknowledge SSA took, what it considers, appropriate actions to ensure children receiving SSI benefits and who are in Florida's foster care program are paid correctly. Specifically, SSA was satisfied with information it obtained from the State of Florida that attested to the fact that Florida DCF pays foster care maintenance costs with State funds. Accordingly, in March 2008, the ARO instructed all Florida SSA field offices to verify the source of each child's foster care benefits. In compliance with this instruction, we believe SSA should ensure that field offices verify the source of funds, in each case, with DCF staff.

Additionally, given that Indiana, Ohio, Oregon, and California are also participating in a Flexible Funding/Capped IV-E Allocation Demonstration Project, we believe SSA should ensure that these five states, when applicable, provide sufficient information that would enable field office staff to determine whether a child's foster care benefits impact their SSI eligibility or amount of benefits.

FOSTER CARE FUND SOURCES ARE LESS IDENTIFIABLE UNDER THE WAIVER

After HHS granted Florida the Title IV-E waiver, the State changed its accounting practices, making the determination regarding the source of foster care maintenance payments for SSI recipients extremely difficult. As shown in Flowchart 1, Florida DCF combines SSA, State foster care maintenance payments, and Title IV-E funds. Accordingly, the State cannot definitively determine the source of funds used for foster care maintenance payments.

Under the waiver, Florida's DCF classifies foster care children receiving SSI as IV-E eligible but non-reimbursable. By making this determination, DCF asserts that State funds, not Title IV-E funds, are used to reimburse foster care maintenance payments. SSA considers the State funds to be financial "assistance," not income, in determining SSI eligibility and payments. Therefore, SSA would pay full SSI payments to the foster care child (or the appropriate representative payee).

Because Florida DCF is operating under the waiver, it is not required to make claims to HHS for Title IV-E reimbursement of foster care maintenance payments. As a result, DCF modified its accounting system and no longer has an accounting expenditure code for every fund source and foster care placement type. Although DCF can identify the cost of care for each child, it no longer shows the cost was charged to a specific State fund.

DCF relies on other, broader, information to conclude that State funds are used to pay maintenance costs for children receiving SSI who are deemed Title IV-E eligible but non-reimbursable. For example, DCF emphasized the State continues to fund child welfare through a combination of State general revenues and other Federal funds at levels that, at a minimum, matched the funding before the waiver. DCF asserts, because State funding has at least remained the same under the waiver, it is unlikely that Federal Title IV-E funds are being used to reimburse foster care maintenance costs for children receiving SSI. DCF is confident its broad analysis supports its assertion that Title IV-E funds are not used to reimburse foster care maintenance costs for SSI recipients.

However, given Florida DCF's revised accounting practices limit its ability to determine whether State funds were used to make foster care maintenance payments, we are concerned that SSA was not provided sufficient information to determine whether an SSI offset is applicable.

SSA's GUIDANCE ON TREATING TITLE IV-E WAIVER BENEFITS

After DCF implemented the Title IV-E waiver, SSA's field offices performed routine eligibility verifications for SSI recipients.[11] During this process, at least one of Florida's Community Based Care lead agencies reported to SSA that foster care children were receiving Title IV-E waiver benefits as monthly maintenance payments. In redetermining the childrens' eligibility, SSA's field office deemed the Title IV-E funds as income, which initiated the offset of SSI payments. The Community Based Care agency subsequently raised concerns to the field office as to whether the offsets were correct. Field office staff involved in the eligibility verifications contacted SSA's ARO for guidance on the proper treatment of the Title IV-E waiver benefits. Ultimately, the issue was elevated to SSA's OISP, which researched the matter.

[11] SSA periodically performs reviews (redeterminations) of SSI recipients to ensure eligibility and that any benefits due the recipient are paid accurately.

Detailed questions were presented to both DCF and HHS. Based on the responses, the ARO (with OISP's concurrence) issued a memorandum in March 2008 to all Florida field offices and area directors that provided guidance on the treatment of Title IV-E waiver benefits. The memorandum concluded that DCF's intent, before and under the waiver, was to maintain foster childrens' SSI eligibility by paying foster care maintenance costs with State funds. The ARO instructed the field offices to verify the foster care funding source for each case, and to accept the State's assertion that foster care maintenance payments for SSI recipients are paid with State funds.

Matters for Consideration

We acknowledge Florida DCF's intent is to reimburse foster care maintenance payments to those children who receive SSI payments with State funds. This practice would preserve the child's SSI eligibility and monthly payments. However, after the Title IV-E waiver, DCF changed its accounting practices and no longer associates monthly foster care maintenance payments with a specific State fund (source). As such, the State could be receiving Federal funds from two sources for the same purpose. Also, without such data, SSA cannot be assured that State funds are used to reimburse these costs when SSI is involved. This situation complicates SSA's decision on whether Title IV-E funds should be considered income and an SSI offset is required.

We acknowledge SSA took, what it considers, appropriate actions to ensure children receiving SSI benefits and who are in Florida's foster care program are paid correctly. Specifically, SSA was satisfied with information it obtained from the State of Florida that attested to the fact that Florida DCF pays foster care maintenance costs with State funds. As such, the children's SSI benefits are not subject to a Title IV-E offset. In March 2008, the ARO instructed all Florida field offices to verify, in each case, the source of the child's foster care benefits. In compliance with this instruction, we believe SSA should ensure that field offices verify the source of funds, in each case, with DCF staff.

Additionally, Indiana, Ohio, Oregon, and California are also participating in a Flexible Funding/Capped IV-E Allocation Demonstration Project. We believe SSA should determine whether these States have source of funding information that SSA field office staff may use to determine whether foster care benefits impact the child's SSI benefits. Further, if necessary, SSA should consider issuing guidance to field offices in these States on how to handle SSI claims involving foster care children and Title IV-E waiver funds. Finally, in the event other States are granted Title IV-E waivers, SSA should take similar action.

Appendices

Acronyms

ARO	Atlanta Regional Office
C.F.R.	Code of Federal Regulations
DCF	Florida Department of Children and Families
HHS	U.S. Department of Health and Human Services
OISP	Office of Income Security Programs
OIG	Office of the Inspector General
SSA	Social Security Administration
SSI	Supplemental Security Income
U.S.C.	United States Code

Scope and Methodology

Our objective was to review whether Florida's Title IV-E Waiver hindered the Social Security Administration's (SSA) ability to accurately determine the amount of Supplemental Security Income (SSI) payments due children in Florida's foster care program. The waiver, effective October 2006, was granted by the U.S. Department of Health and Human Services (HHS), Administration for Children and Families. We became aware of the Florida IV-E waiver during a prior review of a Florida foster care organization.[1] However, because additional work was needed to determine how the waiver impacted SSA's requirement to offset SSI payments against Title IV-E payments, we introduced the subject in the *Other Matter* section of the report. As such, we initiated this review to further assess the matter.

To accomplish our objective, we:

- Reviewed the terms and conditions of Florida's Title IV-E waiver, which is part of HHS' Flexible Funding/Capped IV-E Allocation Demonstration Project.
- Reviewed relevant Federal and State laws and regulations, as well as SSA's policies and procedures.
- Interviewed SSA personnel regarding Florida's Title IV-E waiver.
- Interviewed HHS and Florida's Department of Children and Families (DCF) staff.
- Reviewed HHS websites for background information and prior reports pertaining to foster care, Title IV-E funds, and Title IV-E waivers.
- Reviewed DCF websites for information on the Title IV-E waiver and the foster care program.

We did not perform tests of DCF's accounting records or its Community Based Care lead agency's accounting records.

[1] *Partnership for Strong Families, an Organizational Representative Payee for the Social Security Administration* (A-04-07-17084), March 2008. http://www.ssa.gov/oig/ADOBEPDF/A-04-07-17084.pdf

We performed our review from September 2008 through April 2009 in Atlanta, Georgia. The entity reviewed was the Atlanta Regional Office and the Office of the Deputy Commissioner for Retirement and Disability Policy, Office of Income Security Programs. We conducted our review in accordance with the President's Council on Integrity and Efficiency's[2] *Quality Standards for Inspections*.

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[2] In January 2009, the President's Council on Integrity and Efficiency was superseded by the Council of the Inspectors General on Integrity and Efficiency, *Inspector General Reform Act of 2008*, Pub. L. No. 110-409 § 7, 5 U.S.C. App. 3 § 11.

OIG Contacts and Staff Acknowledgments

OIG Contacts

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Acknowledgments

In addition to those named above:

Teaketa Turner, Senior Auditor

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