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# REIMBURSEMENT FOR SOCIAL SERVICES EXPENDITURES

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## HEARING

BEFORE THE

SUBCOMMITTEE ON ADMINISTRATIVE LAW  
AND GOVERNMENTAL RELATIONS

OF THE

COMMITTEE ON THE JUDICIARY  
HOUSE OF REPRESENTATIVES

NINETY-FIFTH CONGRESS

SECOND SESSION

ON

H.R. 10101

TO AUTHORIZE AN APPROPRIATION TO REIMBURSE CERTAIN  
EXPENDITURES FOR SOCIAL SERVICES PROVIDED BY THE  
STATES PRIOR TO OCTOBER 1, 1975, UNDER TITLES I, IV, VI,  
X, XIV, AND XVI OF THE SOCIAL SECURITY ACT

MARCH 8, 1978

Serial No. 40



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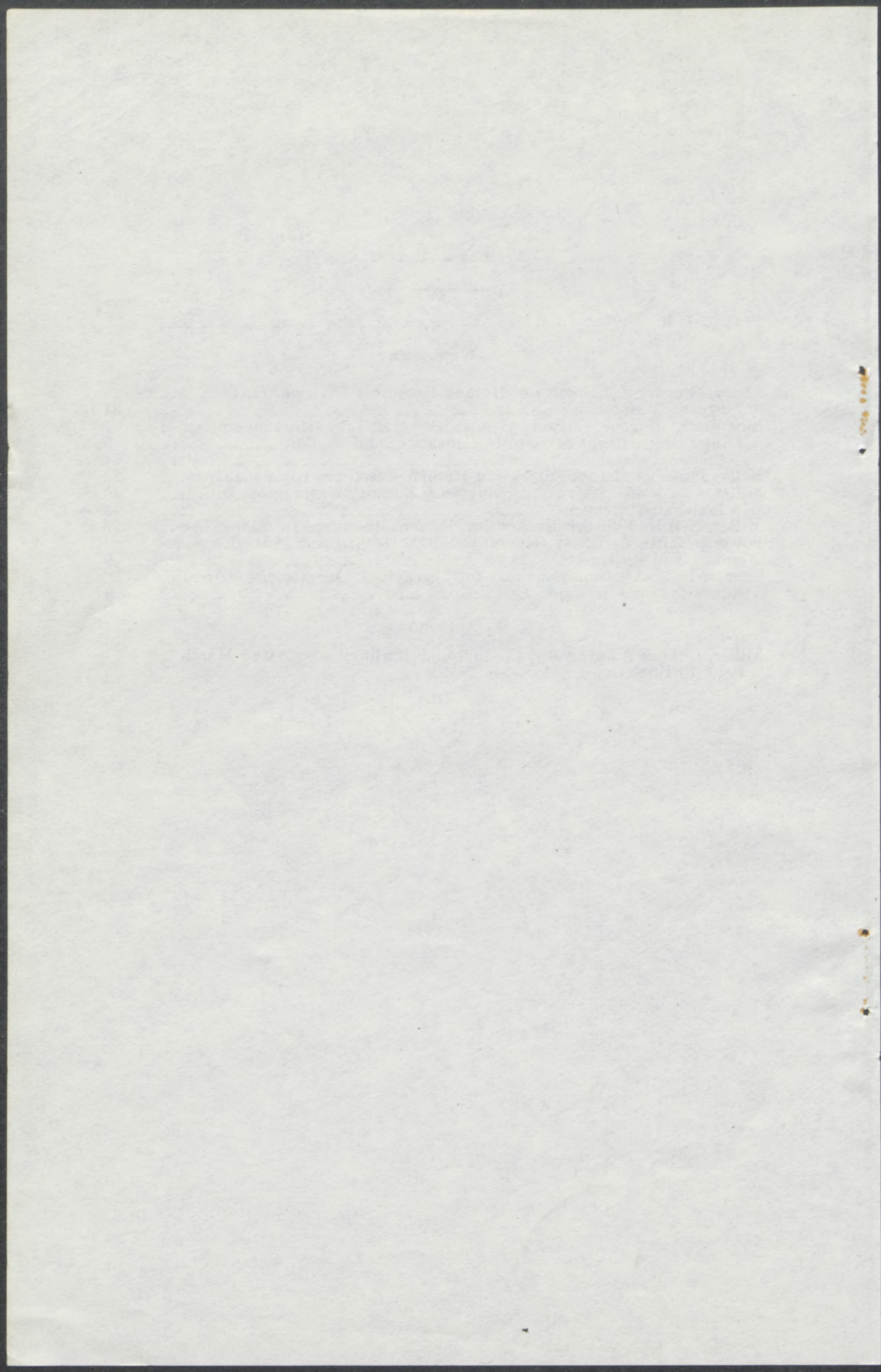
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## REIMBURSEMENT FOR SOCIAL SERVICES EXPENDITURES

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WEDNESDAY, MARCH 8, 1978

U.S. HOUSE OF REPRESENTATIVES,  
SUBCOMMITTEE ON ADMINISTRATIVE LAW  
AND GOVERNMENTAL RELATIONS  
OF THE COMMITTEE ON THE JUDICIARY,  
*Washington, D.C.*

The subcommittee met at 1 p.m. in room B-352 of the Rayburn House Office Building, the Honorable George E. Danielson (chairman of the subcommittee) presiding.

Present: Representatives Mazzoli, Moorhead, and Kindness.

Staff present: William P. Shattuck, counsel, Timothy J. Hart, assistant counsel; Alan F. Coffey, Jr., associate counsel; and Florence McGrady, staff assistant.

Mr. DANIELSON. The quorum for the purpose of conducting hearings having been present, we will come to order and commence our hearing.

The subject of today's hearing will be the bill H.R. 10101, captioned "A Bill to Authorize an Appropriation to Reimburse Certain Expenditures for Social Services Provided by the States—Prior to October 1, 1975, under Certain Titles of the Social Security Act."

While it doesn't say it, the title could properly be amended to include the standard phrase ". . . and for Other Purposes."

[A copy of H.R. 10101 follows:]

(1)



95TH CONGRESS  
1ST SESSION

# H. R. 10101

---

## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 18, 1977

Mr. RODINO (for himself and Mr. DANIELSON) introduced the following bill;  
which was referred jointly to the Committees on the Judiciary and Ways  
and Means

---

## A BILL

To authorize an appropriation to reimburse certain expenditures for social services provided by the States prior to October 1, 1975, under titles I, IV, VI, X, XIV, and XVI of the Social Security Act.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*  
3       That (1) there are authorized to be appropriated not to ex-  
4       ceed \$543,000,000, to remain available until expended, to  
5       enable the Secretary of Treasury to pay to any State the  
6       amount, determined by the Secretary of Health, Education,  
7       and Welfare (hereinafter in this Act referred to as the  
8       "Secretary") in accordance with paragraph (2), owed to the  
9       State as settlement of a claim of the State against the United  
10      States for reimbursement of expenditures made by the State



1 prior to October 1, 1975, with respect to services (and re-  
2 lated administrative costs) asserted by the State to have  
3 been provided (or incurred) under an approved State plan  
4 pursuant to title I, IV, VI, X, XIV, or XVI of the Social  
5 Security Act.

6 (2) (A) .In the case of a claim by a State for reimburse-  
7 ment described by paragraph (1) that the Secretary  
8 determines—

9 (i) was asserted against the United States, in the  
10 form and manner prescribed by the Secretary with re-  
11 spect to the filing of claims under title I, IV, VI, X,  
12 XIV, or XVI of the Social Security Act, prior to April  
13 1, 1977; and

14 (ii) in the case of any such claim with respect to  
15 expenditures of a State after June 30, 1972, is within  
16 the allotment of the State determined in accordance with  
17 section 1130 of the Social Security Act, as added by  
18 section 301 (a) of Public Law 92-512 and in effect with  
19 respect to fiscal years beginning after June 30, 1972;  
20 the Secretary shall certify to the Secretary of the Treasury  
21 for payment to the State the sum of—

22 (iii) an amount equal to 38 percent of so much of  
23 the claim as does not exceed \$50,000,000;

24 (iv) an amount equal to 35 percent of so much of



1 the claim as exceeds \$50,000,000 but does not exceed  
2 \$150,000,000; and

3 (v) an amount equal to 21 percent of so much of  
4 the claim as exceeds \$150,000,000: *Provided*, That if  
5 the total of all such unpaid claims of a State equals or  
6 exceeds 85 percent of the total of all such claims (both  
7 paid and unpaid) of that State, the percentage specified  
8 in clause (iii) above shall be 58 percent and the per-  
9 centage specified in clause (iv) above shall be 50 per-  
10 cent.

11 (B) (i) In the case of a claim by a State for reimburse-  
12 ment described by paragraph (1) that the Secretary deter-  
13 mines meets the requirements of clauses (i) and (ii) of sub-  
14 paragraph (A) of this paragraph, except that the claim was  
15 asserted, in the form and manner prescribed by the Secretary,  
16 on or after April 1, 1977, but prior to the ninety-first day  
17 following the date upon which this Act is enacted, the Secre-  
18 tary shall certify to the Secretary of the Treasury for pay-  
19 ment to the State, subject to clause (ii) of this subparagraph,  
20 an amount equal to 15 percent of so much of that claim as  
21 he finds to be for the provision of services that he finds the  
22 State provided and for which he has not provided reimburse-  
23 ment, but the expenditures for which were reimbursable  
24 under title I, IV, VI, X, XIV, or XVI of the Social Secu-



1 rity Act prior to April 1, 1977, or, if not services the ex-  
2 penditures for which were reimbursable, are services of a  
3 similar kind, and are not otherwise reimbursable under this  
4 Act.

5 (ii) The Secretary may not certify for payment or pay-  
6 ments to any State under the authority of this subparagraph  
7 an aggregate amount that exceeds 5 percent of that State's  
8 allotment for fiscal year 1973 of social service funds under  
9 titles I, IV-A, X, XIV, and XVI of the Social Security Act,  
10 as determined in accordance with section 1130 (b) of such  
11 Act, less the amount certified for payment to the State under  
12 subparagraph (A) of this paragraph.

13 (iii) The Secretary shall have no authority, by regula-  
14 tions or otherwise, to extend the time period specified in  
15 clause (i) of this subparagraph or to waive the time limit  
16 for assertion of a claim.

17 (3) (A) Except with respect to amounts paid by the  
18 Secretary to a State prior to April 1, 1977, no State is en-  
19 titled to reimbursement of expenditures described by para-  
20 graph (1) except as provided by this Act.

21 (B) Neither the Secretary nor any other official of the  
22 Federal Government may seek to recover any amount paid  
23 to a State prior to April 1, 1977, or pursuant to this Act,  
24 with respect to a claim of the State described by paragraph  
25 (1).



1       (4) (A) The Secretary is authorized to enter into agree-  
2 ments with any State in accordance with the provisions  
3 of this Act, and agreements entered into prior to the enact-  
4 ment of this Act, to the extent not inconsistent with the  
5 terms hereof, shall have the same force and effect as agree-  
6 ments entered into subsequent to enactment of this Act.

7       (B) In the absence of an agreement, a State dissatisfied  
8 with a determination by the Secretary under this Act may,  
9 by application to the Secretary within 60 days after the date  
10 of notice to the State of that determination, obtain the  
11 Secretary's review of that determination. If the application  
12 requests a hearing, the Secretary shall conduct a hearing  
13 after reasonable notice to the State, and shall, on the basis of  
14 evidence adduced at the hearing, affirm, modify, or reverse  
15 his determination. If the Secretary does not preside at the  
16 reception of the evidence at the hearing, the decision of  
17 the presiding official or body shall be the decision of the  
18 Secretary.

19       (C) No court of the United States has jurisdiction to  
20 entertain any action seeking the review of any determination  
21 or finding of the Secretary under this Act, or otherwise seek-  
22 ing to compel a determination by the Secretary to certify for  
23 payment any claim described by paragraph (1) : *Provided,*  
24 *however,* That the appropriate district court shall have juris-  
25 diction over any action seeking enforcement of an agreement



1 of the kind referred to in subparagraph (A) of this  
2 paragraph.

3 (5) (A) Amounts appropriated under paragraph (1)  
4 shall be first applied in settlement of the claims described in  
5 subparagraph (A) of paragraph (2). If, after that payment,  
6 the amounts remaining are insufficient to pay the amounts  
7 established by subparagraph (B) of paragraph (2) with  
8 respect to claims asserted under that subparagraph, the  
9 Secretary shall certify for payment with respect to each claim  
10 under that subparagraph an amount that bears the same rela-  
11 tionship to that claim as the total of such remaining available  
12 amounts bears to the total of all claims asserted under that  
13 subparagraph.

14 (B) A reduction effected by subparagraph (A) of this  
15 paragraph in the amount payable to a State under paragraph  
16 (2) (B) does not give rise to an entitlement in the State to  
17 the difference between the amount payable under paragraph  
18 (2) (B) (without regard to subparagraph (A) of this para-  
19 graph) and the amount payable under paragraph (2) (B)  
20 after application of subparagraph (A) of this paragraph.

21 (C) In the event that the amount appropriated under  
22 paragraph (1) exceeds the payable claims under subpara-  
23 graphs (A) and (B) of paragraph (2), the excess shall be  
24 available to make further payment on claims under sub-  
25 paragraph (A) of paragraph (2) and for this purpose only



1 the first percentage figure in subparagraph (A) (v) of para-  
2 graph (2) shall be deemed to be 25 percent.

3 (6) The Secretary of the Treasury shall pay to each  
4 State all amounts certified by the Secretary as payable to  
5 that State pursuant to the terms of this Act.



Mr. DANIELSON. We have with us today a number of witnesses.

I am going to proceed as quickly as possible since the House will go into session at 3 o'clock and, inevitably, there will be a quorum quarrel, or a vote, within a few minutes.

Our first witness will be Mr. Eugene Eidenberg, Deputy Under Secretary for Intergovernmental Affairs, Department of Health, Education, and Welfare.

I would like for you to state your name and the names of your associates, and their titles, for the record.

**TESTIMONY OF EUGENE EIDENBERG, DEPUTY UNDER SECRETARY FOR INTERGOVERNMENTAL AFFAIRS, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, ACCOMPANIED BY DALE SOPPER, ASSISTANT SECRETARY FOR LEGISLATION; AND GALEN POWERS, ASSISTANT GENERAL COUNSEL**

Mr. EIDENBERG. Thank you.

Mr. Chairman, I am Eugene Eidenberg, Deputy Under Secretary for Intergovernmental Affairs, Department of HEW.

To my right is Mr. Dale Sopper, from the office of the Assistant Secretary for Legislation.

To my left is Mr. Galen Powers, who is Assistant General Counsel for the Department.

Mr. DANIELSON. Our form sheet here says Mr. Richard Beattie would be here.

He stayed home today, did he?

Mr. EIDENBERG. Mr. Powers is representing the General Counsel's Office.

Mr. DANIELSON. Then we have Mr. Powers to my right, and Mister—

Mr. SOPPER. Sopper, S-o-p-p-e-r.

Mr. DANIELSON. OK. Thank you.

On this matter, Mr. Eidenberg, you may proceed in any manner you wish. If you are so inclined, you may make your argument or persuasion to us, and we'll put your statement in the record.

If you would prefer, you may read it.

Mr. EIDENBERG. It would be fine with me, Mr. Chairman, if I submitted the statement I have prepared for the record and just make a very brief summary statement to you, if that would be acceptable.

Mr. DANIELSON. Without objection, his prepared statement will be received in the record. Go ahead and proceed.

Mr. EIDENBERG. Thank you, Mr. Chairman.

Let me just begin by acknowledging my appreciation to you for having the hearing today on H.R. 10101.

You have introduced, on behalf of the administration, H.R. 10511, which is an identical bill which has been introduced by Mr. Corman.

We believe it's an important piece of legislation that would bring to an end a very long and protracted dispute that exists between a number of States and HEW, disputes that arose in the 1960's and yearly 1970's over the criteria, standards, and methods for reimbursing States for expenses they incurred in providing social services to eligible public aid recipients in their States.



I will not, because my statement does so, go into the details of that history, except to say that the services we are talking about were services such as day care for children, protective services for neglected or abused children, drug and alcohol abuse services, family counseling, and a variety of services for aged, blind, and disabled persons.

The history of this issue goes back at least a decade or longer; and the disputes essentially focused on \$800 million of social service reimbursements that has been made to the States and were in various stages of disallowance or reconsideration, and another approximate \$1.6 billion of claims that the States had outstanding against the Department for reimbursements that had never been paid.

So there are well over \$2 billion worth of disputes between the Department and the States that had grown up over the years, and this doesn't touch the billions of dollars of other payments that had been made that potentially could come into dispute as the result of audits.

I think it's safe to say that no other single issue facing the Department contributed more to the sense of frustration and friction in our intergovernmental relations than this single issue.

Secretary Califano, very early in his tenure as Secretary, asked the Under Secretary, Hale Champion, to begin a process to see whether a negotiated settlement could be achieved with the States that would settle all these disputes that precede October 1, 1975, when the Congress consolidated all these social service programs under the single title XX of the Social Security Act.

The Secretary was anxious to put this particular problem behind us and to resolve these disputes. The alternative to negotiating a settlement was really an endless and expensive process of litigation, without any sense on either side, as to what the outcome was going to be.

There has already been some litigation which creates the preconditions for more disallowance procedures, reconsideration procedures, and litigation. Without a settlement, it will go on for years with no assurance as to the financial outcome to the Federal Government.

It was in that context and against that backdrop that the Secretary instructed the Under Secretary to see if a settlement was possible.

The settlement resulted from a meeting with representatives of all the affected States during which the Under Secretary reported that the President was prepared to seek authority from the Congress to expend up to \$543 million to settle the disputes and to forgive all other reconsiderations and disallowances against the States for reimbursements that had already been paid.

We proposed a formula for allocating that \$543 million against all the known claims and those that might subsequently be submitted by the States.

We solicited the State's participation, let me say, in a direct request to the Governor of each State, and told the States that a—

Mr. DANIELSON. Let me interrupt.

Flo, could you print a sign, "Welcome, we're all here" and post it on the outside of the door, but close the door?

Ms. McGRADY. All right.

Mr. DANIELSON. Go ahead.

Mr. EIDENBERG. In meeting with the State representatives, the Under Secretary said we were operating under a budgetary constraint. We are prepared to ask the Congress for authority to expend up to



\$543 million, but the particular allocation is negotiable. We did propose a take-it-or-leave-it allocation.

It was really straight-forward negotiated solution to these very complex disputes. In working with States over a period of weeks and months, we came up with the formula which is reflected in the bill that's before the subcommittee.

It has the support of virtually every State involved and affected. It would allocate \$532 million against the outstanding claims that are already on record before the Department.

It would provide \$12 million of contingency accounts after the \$531 million is expended to provide allocations for additional claims that might be submitted by States after the bill has been enacted, within 90 days after the bill has been enacted.

We have signed agreements for this negotiated solution with those States that are to receive payments. We are here today with some sense of satisfaction; and are eager for your support and approval of this solution. The settlement that we've negotiated puts behind us a very tortured decade of dispute and controversy and resolves all the outstanding matters affecting these social service claims.

With that as a general background, Mr. Chairman, I'll stop and be glad to answer any questions.

Mr. DANIELSON. Fine. Let me see if I've got my thinking correct, and don't hesitate to correct me if I'm wrong.

It's my understanding that the Federal Government pays funds to these States for which they, in turn, or even in advance, pay out in the furtherance of some of the social security programs.

You have enumerated several of them that are affected here. I assume that they are the ones covered by the bill, titles I, IV, VI, X, XIV, and XVI.

Mr. EIDENBERG. That is correct.

Mr. DANIELSON. All right. Now, during the period between the dates you mentioned, one in October of 1972, I believe, and one in 1975—

Mr. EIDENBERG. The consolidation of those various titles for the social service programs became effective in 1975.

Mr. DANIELSON. But the span of time during which the claims were generated ended in October of 1975, and it began in 1972. Am I correct?

Mr. EIDENBERG. I'm not sure if I understand it.

Mr. DANIELSON. There's something in the bill about 1972, and I'd like to know what it is. On page 2, line 15, with respect to expenditures of a State after June 30, 1972. Is that the date of inception?

Mr. EIDENBERG. That's the date of—counsel just advised me that's the date on which the Congress imposed the \$2.5 billion ceiling on allotments for social services.

Before that date it was essentially an open-ended authority against States which sought reimbursement. There are claims what precede the 1972 date, and then there are claims between 1972 and 1975; and this bill would resolve all those disputes.

Mr. DANIELSON. I get it. It's a reference, the 1972 date, but it brings in, apparently, a slightly different formula. Is that the idea?

Mr. EIDENBERG. That's right. Some of these claims go back to 1969.



Mr. DANIELSON. All right. The 1972 had stuck in my mind. All right. It's my understanding that before a State is authorized to be reimbursed for an expenditure, the plan under which they make the payment must be a plan submitted to HEW and approved by HEW.

Mr. EIDENBERG. That is correct.

Mr. DANIELSON. And at least substantial effort has been made to follow that throughout the years, and the claims with which we are dealing, in one manner or another or several, the plans were either not approved or were not according to approved—the expenditure was not according to a fully approved plan or a variance with the plan. Is that correct?

Mr. EIDENBERG. The disputes, in part, were occasioned by the Department challenging, in some cases, whether payments had been made by States for services under an approved plan.

Mr. DANIELSON. You weren't challenging whether they were paid, but whether they were made under an approved plan?

Mr. EIDENBERG. Right. In some cases. In other cases we were not challenging whether the payments were made under an approved plan, but whether the person receiving the benefit of the services for which reimbursement was claimed was eligible to receive those services.

Mr. DANIELSON. Under a plan.

Mr. EIDENBERG. Under a plan. That's another kind of dispute.

Mr. DANIELSON. You're not questioning whether the expenditures were made, you're questioning whether they fit the glove of the precise plan under which they purport to have been made.

Mr. EIDENBERG. That's right. And in each one of the disputes that was before a court or before a panel for reconsideration, those were the kind of disputes.

Mr. DANIELSON. And the aggregate of the disputed claims, they aggregate something like \$2,400 million?

Mr. EIDENBERG. That's correct.

Mr. DANIELSON. Of which HEW has already paid to the States \$1,600,000,000, round numbers?

Mr. EIDENBERG. That's correct.

Mr. DANIELSON. And approximately \$800 million remain not paid, but the States, or some of them feel that they should be paid.

Mr. MOORHEAD. I didn't hear that. You say on the basis of what?

Mr. EIDENBERG. The \$1.6 billion had not been paid to the States, and the States were seeking reimbursement—or seeking payment of that \$1.6 billion, \$800 million of disputed claims had been paid to the States.

Mr. DANIELSON. I just have it in reverse.

Mr. EIDENBERG. Exactly.

Mr. DANIELSON. \$800 million had been paid of disputed claims.

Mr. EIDENBERG. Correct.

Mr. DANIELSON. \$1.6 billion had not been paid, it's in the disputed category.

Mr. EIDENBERG. I may have misled you, and the record will reflect that if I reversed it earlier in my comments.

Mr. DANIELSON. Well, we've got at least a picture here.

Mr. EIDENBERG. Exactly.

Mr. DANIELSON. It may be distorted, but it's the same idea.

All right. Now, affected States claiming a right to reimbursement have filed a number of actions against the Government.



Mr. EIDENBERG. Correct.

Mr. DANIELSON. Can you give me any idea how many?

Mr. EIDENBERG. Well, let me—of the 28 States involved, there were—

Mr. DANIELSON. Just give me a ballpark figure, and then if you've got a sheet here that's not superclassified, we will put it in the record without objection.

Mr. EIDENBERG. There are eight pending court suits, for example, against the Department. There were—which looks to me, just quickly looking over the list, probably something on the order of 15 or so of the 28 States.

Mr. DANIELSON. I'm thinking about 800 or 900 lawsuits pending. Do you think it's more like 20, 8 to 20?

Mr. EIDENBERG. At this moment, potentially, that's correct.

Mr. DANIELSON. Is that confidential or not?

Mr. EIDENBERG. Absolutely not.

Mr. SOPPER. What this is Mr. Chairman is a listing of the States and the various amounts that are at issue with them in terms of claims which have been paid and challenged.

Mr. DANIELSON. I think that's an exhibit to the General Accounting Office's statement. We won't need it then.

All right. Now then, you do have some 8 to 20 lawsuits against the Government to collect the money which the States claim is owing. Has the Government commenced any civil actions against the States to recover funds which we claim have been paid incorrectly or improperly?

Mr. EIDENBERG. No, we have not.

Mr. DANIELSON. Have any efforts been made to collect such funds?

Mr. EIDENBERG. Yes. Maybe Mr. Powers could elaborate on the proceedings that are, in fact, underway.

Mr. POWERS. When we make a claim against a State under the welfare titles of the Social Security Act, our method of recovery is merely to offset against the next quarterly payment.

Mr. DANIELSON. You withhold from future payments which would otherwise be due?

Mr. POWERS. That's correct, unless the State asks for some kind of reconsideration or goes to court to stop us.

Mr. DANIELSON. In a nutshell, you don't sue to recover?

Mr. POWERS. That's right. We don't have to.

Mr. DANIELSON. All right. Now, you mentioned the 28 States under the formulas that you've been talking about, which is reflected in this bill. Twenty-eight States would either receive a payment of a portion, under the formula, of what they claim to be due to them, or the Government would forbear from trying to collect what it considers to have been paid improperly.

Mr. EIDENBERG. Correct.

Mr. DANIELSON. There would be a consideration, in other words, either payment of money or a forbearance, one or the other.

Mr. EIDENBERG. Right.

Mr. DANIELSON. Have each of the 28 States agreed to the formula?

Mr. EIDENBERG. Each of the States that would receive a payment has, with the exception of the State of Pennsylvania, agreed to the amount of money that the agreement would pay them, should the Congress approve it.



Mr. DANIELSON. How about the States who are receiving the benefit of a forbearance?

Mr. EIDENBERG. To my knowledge, the one State in which there is still outstanding discussion is the State of California.

Mr. DANIELSON. California has only \$1.5 million, as I recall.

Mr. EIDENBERG. \$2.5 million, and they would be able to submit that claim, by the way, against the residual amount described.

Mr. DANIELSON. That's only \$12 million. Would that be enough to cover that claim and then the others which are—wait a minute. I'm diverting from my original question. I want to get back to my question.

How about the States which would receive the benefit of a forbearance, with the exception of California?

Mr. EIDENBERG. We do have agreements with all of the States.

Mr. DANIELSON. Now then, there are 22 other States, and I don't know. How about Puerto Rico, et cetera? There are other States which are neither getting a payment nor a forbearance. Do they agree?

Mr. EIDENBERG. We invited representatives from every State to the meeting in September, that I described earlier, that the Undersecretary held; and if not all 50, very close to all 50 States participated. We do not have signed agreements from those States that will not receive payments, but I have reason to believe that they understand and, in general, support this negotiated solution and understand that they would still have an opportunity 90 days after enactment of this bill to submit any further claims they might have.

Mr. DANIELSON. And that will go against the \$12 million?

Mr. EIDENBERG. Exactly.

Mr. DANIELSON. Does the \$12 million aggregate a sufficient amount to cover any possible contingency of the 22 States and the territories, et cetera, which are not in the formula?

Mr. EIDENBERG. Certainly not 100 percent. The procedure would be to allocate a prorated share against any claim submitted under that procedure.

Mr. DANIELSON. How would the passage of this bill into law deprive those 22 States or any of them of the right to assert their full claim?

Mr. EIDENBERG. Well, I'll ask legal counsel to talk to the legal point. I'm not a lawyer. I simply say we're asking the Congress here, by act of Congress—

Mr. DANIELSON. You mean we can say by act of Congress we don't owe you the money anymore?

Mr. EIDENBERG. Well, we have to get legislative approval to a negotiated settlement. That will, in fact, eliminate this dispute and—

Mr. DANIELSON. What's the period of limitation, if there is one?

Mr. EIDENBERG. Limitation to—

Mr. DANIELSON. To make a claim.

Mr. EIDENBERG. The 90-day period after April 1.

Mr. DANIELSON. Now, but what is the existing one?

Mr. EIDENBERG. None.

Mr. POWERS. There is none, Mr. Chairman. They can claim at any time.



Mr. DANIELSON. Do you know whether the \$12 million would be enough? Suppose every one of these other people, or other States—I am going to use the word “States” to include territories, et cetera, wherever the law applies.

How far short would that fall from covering 100 percent all the other potential claims?

Mr. EIDENBERG. I have no idea, since those States have not submitted those claims.

Mr. DANIELSON. And they still have 90 days in which to do it after the effective date of the law.

Mr. EIDENBERG. Correct, but they have had several years, let me say, to submit claims and have not, so it would be—it’s absolutely—

Mr. DANIELSON. Would the formula prevent you from asserting the offset against any such claims as may be submitted in the 90-day period?

Mr. EIDENBERG. Asserting which offset?

Mr. DANIELSON. Your offset. You claim that on all of these claims, at least there is the contention that the money may have been paid improvidently.

Mr. EIDENBERG. The legislation would foreclose that possibility for the Government. We would be not in a position to reopen any discussion with the States over that offset.

Mr. DANIELSON. Of the 22 States?

Mr. EIDENBERG. Including the 22 States, that’s correct.

Mr. DANIELSON. Well, the only thing that’s bothering me, I think you’ve got to solve this problem. We must, and we’re all painted into a corner. It’s not a desirable situation.

As a practical matter, it’s got to be resolved. I would not like to see us just plant another problem. Twenty-eight States, you say, are going to agree and will receive some kind of legal consideration for the agreement.

I think that would be enforceable, but the other 22 States have not agreed. We don’t know how much we owe them or they claim we owe them.

Mr. EIDENBERG. As we sit here today, Mr. Chairman, they have made no claim that we owe them.

Mr. DANIELSON. But there is no statute. They could make it next year.

Mr. EIDENBERG. That is true, without some negotiated settlement of this sort that has the force of law, which is why we are here.

Mr. DANIELSON. I don’t know if I’m coming across to you. The 22 States who are not a part of the negotiated settlement are not going to be bound by it.

Mr. EIDENBERG. Well, they were part of the negotiated settlement in the sense they participated in to the process.

Mr. DANIELSON. Under the law of contracts, I don’t see how it can stand up.

Anyway, you’ve answered my question, and I appreciate it.

Mr. Moorhead.

Mr. MOORHEAD. In your negotiations, who represented the States, each State’s attorney general or someone from their office?



Mr. EIDENBERG. We wrote to the Governor and asked the Governor to contact the appropriate officials. In general, we had representation either from the State welfare department, State social service agency, and/or the attorney general's office.

Typically, both offices were represented.

Mr. MOORHEAD. Did they really play an active role, or did they just nod their head when you told them?

Mr. EIDENBERG. Mr. Moorhead, let me tell you, they played a very active role. We made our proposal and told them what constraints we were operating under.

You will understand we had no idea whether \$543 million would be viewed as an adequate solution from the State's standpoint.

The States appointed, among themselves, a subcommittee with representation, if I recall, from Michigan, New York, and Oklahoma, and asked the directors of the welfare departments in those three States to work with Mr. Miller (of Covington and Burling), who represented a number of these States, to be the negotiating group with us.

They came back and substantially altered the formula, the proposed formula for payment, and indicated that that suggested change in the formula was a product of discussion across all the States, that they were willing, reluctantly, but willing to live with the proposal to settle the claims, plus the forgiveness of outstanding disputes. We agreed to the change in the allocating of the dollars.

Mr. MOORHEAD. In the case of *State of Florida v. Matthews*, in which 13 States sued the Federal Government, the district court declared your actions were invalid and said the States were entitled to their money. South Carolina and Virginia were parties to that suit; and yet they are not on the list of States that we have before us. What happened there?

Mr. EIDENBERG. Well, the States on the list were the States that, in fact, have dollar claims against the Department that have not been reimbursed or where payments have been made by the Department, and we were disputing those claims.

Those States simply are not in that category and that's why they're not on the list. The issues on the *Florida v. Matthews* case that you referred to, had to do with the authority of the Department in its rulemaking capacity and affected not just the States that had disputes at that point in time.

Mr. MOORHEAD. Why did these States join, if they had nothing coming to them?

Mr. EIDENBERG. I'll ask Mr. Powers to answer that.

Mr. POWERS. Mr. Miller can answer that better than I can, but I want to give an answer that goes to what the chairman said.

Those 22 States that the chairman refers to have no pending disputes with us on these claims. That is merely the product of time. We have not been out there and auditing those States claims. It may well be if we do that, we'd have further disputes with all of them over these claims, so they had a stake in this bill.

Mr. MOORHEAD. I don't think I quite got my answer on that other question yet.

Mr. EIDENBERG. I think that's right. I am personally not able to answer that. Perhaps Mr. Miller can answer when he's here.



Mr. MOORHEAD. Would you see that I get a written answer, so it can go into the record?

Mr. EIDENBERG. Absolutely.

Mr. MOORHEAD. What basically is the status of that case now? Will this agreement affect that?

Mr. POWERS. The case is on appeal, Mr. Moorhead, and the signed agreements we have with the States provide that if this bill is enacted and an appropriation made and payments made, they would move to dismiss the case.

Mr. MOORHEAD. Are South Carolina and Virginia a party to that agreement that they would——

Mr. EIDENBERG. We do not have signed agreements with those States.

Mr. MOORHEAD. But if they weren't, it couldn't be dismissed.

Mr. POWERS. Presumably, the case will be moot. Although it does not itself raise a money claim, it is litigation which looks to ultimate money claims.

Mr. MOORHEAD. One thing that struck me about this, if the regulations were changed and payments that had previously been routinely made were withheld, how come you cut 28 States and not the other 22?

Mr. POWERS. It's partly a function of the auditing process and the review process and what is on hand at the moment and what has gone through first. In other words, there are, in those 22 States, quite likely the same kinds of disputes that have come to the surface with the 28 States.

Mr. MOORHEAD. Of this money that's been paid already, you said once \$1.6 billion and another time \$800 million.

Mr. EIDENBERG. If I did, it was my mistake. I may have reversed the order. It is \$1.6 billion that the States have claimed against HEW to be paid, and \$800 million that we were challenging that had been paid.

Mr. MOORHEAD. Do you have a list of what money has been paid and to what States it has been paid?

Mr. EIDENBERG. Yes, It's either in the GAO report or I have a copy here.

Mr. MOORHEAD. One of the reasons I'm asking for that, I'm rather concerned that the States that promptly complied with the changed regulations are being punished for their compliance. In the end, it's costing them more money. Do you understand that?

Mr. POWERS. I understand, and the bill would, for those States that you characterize as obeying the regulations, give them protection on that point. We would not be able to go back and audit and say we now think you didn't obey regulations.

Mr. MOORHEAD. It goes beyond that. You're paying some of these States money. Perhaps the people that would have been recipients in other States under the same circumstance would have received more money if they had taken the same actions as the States on this list.

Mr. EIDENBERG. If I understand the point you're making, it is that any one of the 22 States, or more precisely, the 22 States not receiving a direct payment could have, without this legislation, in the future reconstructed a claim from the past and sought reimbursement.

That is absolutely true. But we believe that a sense of fairness has been exercised here; and with a very public process and universal



involvement of the States, we feel that there has been adequate notice of what was intended.

Mr. MOORHEAD. Well, I suppose one thing that strikes me immediately, according to the schedule I have, California, with 10 percent of the people in the country, would receive only \$1.5 million out of the total of \$531 million in the bill. I just wonder whether the people of California some place down the line have been shortchanged?

Mr. EIDENBERG. Well, I think you're touching on an issue that really gets at why we approached the issue the way we did and sought a national negotiated settlement rather than going State by State.

As Mr. Powers has indicated, you enter a stream of events at any particular time and you capture only those disputes that have been identified up to that time.

The question of how many millions of dollars the State of California was reimbursed for social services about which disputes could have taken place is presumably quite substantial. We now have, as a result of continuing discussion with the State of California, for example, acknowledgment that there is an excess of \$120 million of payments we have already made to the State of California that—

Mr. MOORHEAD. Under that form of payment?

Mr. EIDENBERG. Exactly. We would no longer challenge that.

Mr. MOORHEAD. That's what I was interested in.

Mr. EIDENBERG. The Assistance Payments Administration of California notified me just within the last several weeks on their views on this matter.

Mr. MOORHEAD. OK. On that point then, my major concern is this. If this agreement is entered into, your suits are all going to be dismissed and so you won't have the expense of defending them further. But have you fully revised your procedures so that this isn't going to occur all over again?

Welfare is something that's being paid out all the time, and I know these States have been complaining about the Federal regulations in this area for years, as long back as I can remember. Is this just going to be a stopgap; is it something that's going to recur 2 or 3 or 4 years from now?

Mr. EIDENBERG. I don't believe it will, and let me indicate why. No. 1, we're dealing now with the consolidated social service titles under title XX. There's been a cap that's been imposed, \$2½ billion. If the Congress were to raise that level, we'd still be operating with a congressionally mandated limit of the number of dollars to be spent for these purposes.

We had no such limit during most of the time when these claims were generated, and the Department's experience with the pre-title XX social service claims has certainly served to sensitize us to these kinds of problems. I don't believe we'll have this kind of experience again.

Mr. MOORHEAD. OK. If you can get me the answers to the previous questions, I'd appreciate it. Thank you.

Mr. DANIELSON. Mr. Kindness.

Mr. KINDNESS. Thank you, Mr. Chairman. I am still having a little trouble with my numbers. The listing that we have of the 28 States that are involved includes 13 States that would receive a payment under the bill and 22 States that would have claims dropped under the bill.



Now, I understand that there are some States that are receiving payments that are uncontested, as, for example, in response to Mr. Moorhead's question, you indicated California has a category of some substantial number of dollars which could be possibly involved in such a conflict of opinion. I assume other States have similar payments that are not being contested under present circumstances.

Now, with regard to the States involved in the law suits, are there any of those States that have received payments that are uncontested, either pursuant—well, let's take first pursuant to those law suits. Have any payments been made pursuant to the law suits?

MR. EIDENBERG. I'll ask Mr. Powers to answer that.

MR. POWERS. No payments have been made pursuant to the law suits. All of those States have received millions of dollars in payments under the social services programs that are, at this moment, uncontested.

MR. KINDNESS. And it's conceivable then that there are States with uncontested claims that receive a greater proportion in settlement than those who are entering into this agreement. Is that correct?

MR. EIDENBERG. Yes.

MR. KINDNESS. It's the luck of the draw as to whether they had been audited up to the point in time when the policy was determined to stop pressing this type of claim—whether they are included in the one category or the other, whether they have 100-percent reimbursement or this formula reimbursement. Is that correct?

MR. EIDENBERG. It is absolutely true that at the moment at which negotiations began, each State found itself in a different position with respect to the Department and relative to each other, as to the percentage of their claims in dispute, paid, unpaid, all the rest. There is no question about it.

As a matter of fact, we spent a fair number of hours agonizing about whether any settlement would be possible, precisely for this reason. Would States necessarily feel a sense of inequity, simply because of the timing of the negotiations. That is why the negotiations relied so heavily on the States themselves to tell us how the allocation of available dollars would be made and what forbearance steps the Department might take that would constitute, together, an acceptable settlement.

And what we bring to you today in the form of legislation that's been introduced is a reflection of the States saying this package allocated this way and under these circumstances, with the Department agreeing to forbear on future audits and disputes on reimbursements already made would serve the equities involved. We simply were unable—and the States shared this view—to go State-by-State and measure the validity, as it were, of each State's claims, our claims against that State; and they aggregate those individual negotiations into what would then be a national solution to the problem.

MR. KINDNESS. One way to look at this matter, though, would be that a number of States have received reimbursement on a 100-percent basis up to this point without having been audited, on the questions that are in issue here. While other States have been audited and their payments have been in dispute. It would seem that total equity would be done only by a 100-percent reimbursement to all and the dropping of all disputed claims against the States.



How was this disposed in these negotiations? I'm sure the question arose, and I'm trying to understand the manner of arm twisting that may have been involved.

Mr. EIDENBERG. Well, Mr. Miller and others are here and can speak as to whether arms were twisted. I know of no arm-twisting. It was the sense that the climate had been achieved in which one could negotiate a settlement to this. Neither side knew how the lawsuits and disputes through the available processes would turn out. Because it is a very lengthy process, the States were having a hard time planning for social services, whether the reimbursements they were claiming could be included in their accounts receivable. There was much to be gained from solving the problem and knowing where you stood and what the resolution would be.

In our perspective it was, as I said earlier, the single most difficult and contentious issue between the Department and the States. For a department that manages as much money as HEW does and relies so heavily on State and local government to administer the programs that we fund, to have this kind of irritant in those relations is very troubling indeed. Furthermore, we did not know—representing the Federal taxpayer—we did not know what the outcome would be in court and whether we would end up having to reimburse for a very substantial amount of these claims and absorb the additional cost of time etc. so I think there was that sense, and the climate was right and we were able to find this level of agreement.

Mr. KINDNESS. But then since the controversy has come into focus, there have been no payments to States of 100 percent. Or, at least since the negotiations began, there have been no payments on a 100 percent basis to States or forgiveness of claims that have been in dispute against the States on a 100 percent basis?

Mr. EIDENBERG. That's correct.

Mr. KINDNESS. Thank you.

Thank you, Mr. Chairman.

Mr. DANIELSON. Mr. Mazzoli.

Mr. MAZZOLI. Mr. Chairman, I came in rather late and I hesitate to ask questions that haven't been answered, but, Mr. Secretary, you were just touching on a point that concerns me a lot. I don't know much about State and Federal relations, but I do know that the Federal Government is what has the money, and when you've got the money, my daddy used to say, he who pays the piper calls the tune. So I wonder to what extent can this irritant be, because what you have is a one-way street. How can they irritate the Federal Government, the States?

Mr. EIDENBERG. Well, Mr. Mazzoli, all I can say is that the States could have singly or collectively said to us, no deal. You know, whether they believed it was a good faith offer we were making or not, they could have said we don't think it's in our interest to accept this offer, we would rather play this out in litigation and see what decisions get made in the courts.

These States did not make that decision. Now, there was no pressure, direct or indirect, on them to accept the approach we were suggesting, because there was no way that their refusal to accept the negotiated settlement would affect their current allotments under the current social service title XX programs.



Those dollars go to the States. As a matter of fact, we do not plan the use of those social service dollars. The States do. So I think it was a free choice.

Mr. MAZZOLI. Maybe I'm wrong, but would not these cases be tried out, if they're litigated by the State attorney general and the U.S. Department of Justice or your Office of General Counsel or something, I mean, these people are already on the payroll of the taxpayers. The taxpayer is already paying. This is not as if you have to go out and hire lawyers and get further taxpayer money. It's on the record. You've got to hire some experts and some economists and some statisticians, but again, I wonder if basically it might not be cheaper to try out one or two of these cases, hit these States in the head, if that be the way, or be hit in the head, if that's the decision, and then work on that basis. I would, therefore, ask you are there any cases that we could look to as some reference point as to what the——

Mr. EIDENBERG. As to the merits, I'll ask Mr. Powers to speak on that. That frankly was an issue before the Under Secretary and the Secretary, do we litigate and force the issue to some judicial determination and see where we sit or do we negotiate a settlement. We thought it was in the best interest of the Department and its relations with the States given the costs, in terms of staff time, which would be in some respects, incalculable. I know these States had to spend tens of thousands of dollars in some cases to reconstruct, in their own internal procedures, to reconstruct these claims and to match them against outstanding vouchers to determine the legitimacy of the reimbursement they were seeking. We would have to, with our own staff, dedicate thousands of hours of staff time to a similar validating process, and the time of the General Counsel and what not, in the courts. We decided for all those reasons; the overriding one being the inter-governmental reason, to establish a better climate for doing business, that we would seek a solution to the problem——

Mr. MAZZOLI. You make what, about \$45, \$47,000 a year?

Mr. EIDENBERG. \$47,500.

Mr. MAZZOLI. \$47,500 divided into \$534 million—what I'm trying to say, there's quite a few man-hours and woman-hours and person hours, but I appreciate your answer.

Yes, sir?

Mr. POWERS. None of the cases has gone to a final judgment yet. They are very complicated and difficult, and we are not close to a resolution of any of them. It is not true that the States have used their attorney general's offices. They have, in general, hired outside counsels to handle these cases. I think we are several years away from a resolution in any of them and how the resolution in any particular one of them would apply to unsubmitted claims or submitted claims, we're not at all clear on that.

Mr. MAZZOLI. Are you aware of how these fees are paid in these cases?

Mr. POWERS. No, I am not.

Mr. MAZZOLI. Are you aware of how Mr. Miller's fees are paid?

Mr. POWERS. No, I'm not.

Mr. MAZZOLI. How would you expect he would be paid?

Mr. POWERS. I expect where the suit itself does not involve a money claim that it is charged as an administrative expense by the State of the administering program, but not where it involves a money claim.



Mr. MAZZOLI. Thank you.

Thank you, Mr. Chairman.

Mr. DANIELSON. I'll tell you what. As I see this, we have a mess. There's no use calling it anything else.

Mr. EIDENBERG. That's as good a description as I've heard.

Mr. DANIELSON. I'm not here to find fault. I suppose there's enough to go around. But we have to resolve it somewhere, but I have a very grave concern, that in resolving it we really put it to rest, that we don't just put part of it to sleep. I'm not at all satisfied what we're going to do with those 22 States, you haven't even begun to satisfy me with that.

People can come to a negotiating table to try to settle the lawsuit but if somebody walks out and goes home, you haven't settled that lawsuit. It just hasn't been settled. Thank God, normally, there's a period of limitation beyond which you don't reach, but you don't even have one here.

Now, I'm a little worried about that. Maybe somebody else can resolve my concern and I'll feel very happy about it, but it isn't resolved now.

I'll ask other questions, but I would like to have you gentlemen provide us with this for our record, if it's not in one of the previous existing records before the Senate or before the Ways and Means Committee, it's going to be in ours. I want a list of your lawsuits that have been filed in connection with these claims. Give me the name of the case, the court in which it is pending, the number of the cases, and I want to know the amount in controversy in each instance and if you have a matter of counterclaims and so on, give us at least the figures so we know what we're talking about.

I'm going to ask the Attorney General for some legal advice here, but I think you might be wise to figure out some way that you can get the other 22 States, the territories, et cetera, to come in here in a valid and binding manner and accept this settlement as well, but I'd just hate to go halfway and then find we have just gone halfway.

I don't think it's very good. Obviously, there is nothing equitable about this settlement, nothing at all. On a percentage basis, I see that Oklahoma gets 100 percent, Rhode Island gets 100 percent, Tennessee gets 100 percent, the same for Kentucky and Louisiana.

You're lucky, Mr. Mazzoli. California, almost 100 percent, short \$1½ million; 100 percent to Alaska and Arizona.

Mr. EIDENBERG. Those percentages include the dollars of reimbursement already paid to those States.

Mr. DANIELSON. I'm looking at "percentage of total claims States will be paid or will keep." I'm reading the percentages. It's the sixth column of the GAO report.

Mr. EIDENBERG. Mr. Chairman, the point I'm making is—let's just take Alabama. In the case of Alabama, the only dollars at issue were the dollars we already paid Alabama that we would now forbear of making any claims against.

Mr. DANIELSON. So they get 100 percent.

Mr. EIDENBERG. In that sense, they get 100 percent.

Mr. MAZZOLI. Kentucky gets nothing back. They just forgive the debt Kentucky might have in controversy.



Mr. DANIELSON. I do understand that, but I'm talking about equity. Some come up with 100, some 50, 53, 61, 65. I'm just looking up and down the column. That's not argument, it's just I don't feel equity is here. We are looking for a solution that is practical and that we are going to be compelled with. It's here. We got it.

I have no other questions.

Mr. MAZZOLI. Excuse me, Mr. Chairman. Could I just ask one question.

It may have to be answered by written memo. I was just quickly glancing down this list and I see the usual big States of New York and Illinois and they pick up the biggest part of the boodle here. Is it because they were more inefficient and more unmindful of proper money management, or is it because they have more extensive programs and more poor people who need social services help?

Mr. EIDENBERG. It's very hard for me to answer. I think it's probably that they have a substantial population of poor people. They also made substantial claims for those services.

Mr. MAZZOLI. Were they mostly made under the category of where there were outside contractors hired to perform these services, in a one step removed setup?

Mr. EIDENBERG. It was both.

Mr. MAZZOLI. Can you give us some idea of how much it is? I worry because I read in the New York Times about this operation in Brooklyn that Liz Holtzman has been after and money that slips through the cracks, and I wonder if we have a situation where we're reimbursing the States for that kind of slippage and perhaps you could supply some figures.

Mr. EIDENBERG. We could give you some fairly rough estimates. We'll try, in some selected cases—perhaps that might be acceptable—to give you a sample.

Mr. MAZZOLI. Thank you.

Mr. DANIELSON. OK. Counsel has a question.

Mr. SHATTUCK. Yes. Pursuing the chairman's question concerning the States that are not a party to the agreement and the negotiation for settlement, the language of the bill seems to refer to this, but I'd like to refer to something I believe that Mr. Powers touched upon, and that is that there are no existing disputes with these other 22 States at the present time. I believe Mr. Powers indicated that the reason was that you had not had the opportunity to audit those States, there were no ongoing audits. Is that correct?

Mr. POWERS. At least in some cases, that's true.

Mr. SHATTUCK. The bill itself says except with respect to amounts paid by the Secretary prior to April 1, 1977, no State is entitled to reimbursement of expenditures proscribed by paragraph 1, except as provided by this act. The phrase is "no State."

Mr. POWERS. Right.

Mr. SHATTUCK. That means any State?

Mr. POWERS. That's correct.

Mr. SHATTUCK. So are we to read this that no State, whether it's a party or not may claim?

Mr. POWERS. That's correct.

Mr. SHATTUCK. So that this will bind these other States?

Mr. POWERS. Yes.



Mr. SHATTUCK. Would it bind the Government in another direction? Would you not be in a position to challenge the other States?

Mr. POWERS. No, sir. We feel the bill would preclude us from recouping amounts paid to the 22 States.

Mr. DANIELSON. We would be stopped.

Mr. POWERS. We would be stopped.

Mr. DANIELSON. But the States would not be?

Mr. POWERS. We feel the bill would stop them from making additional valid claims. That is our view, our position.

Mr. SHATTUCK. Thank you.

Mr. DANIELSON. I'd recommend that you pay each of them \$1,000 for a full release.

Thank you very much, gentlemen. I would hope that we could get that list of lawsuits this week. It's Wednesday. You've got lots of time between now and Friday.

Mr. EIDENBERG. We'll get it to you.

Mr. DANIELSON. And if you know of any potential lawsuits, we'd like to have them identified as well as you can. I think this matter has to be handled promptly. I joke a little bit, but seriously, we do want to get this moving along. It's a terrible situation, and I think it's to everybody's advantage if we do something quickly.

Mr. EIDENBERG. I surely agree on that point, Mr. Chairman.

[The prepared statement of Mr. Eidenberg follows:]

#### STATEMENT OF EUGENE EIDENBERG, DEPUTY UNDER SECRETARY FOR INTER-GOVERNMENTAL AFFAIRS, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

##### INTRODUCTION

Mr. Chairman and members of the committee, it is a pleasure to appear before you today to discuss H.R. 10101, introduced by you, Mr. Chairman, and Mr. Rodino on behalf of the Administration, and H.R. 10511, an identical bill, also introduced on behalf of the Administration by Mr. Corman.

We are particularly pleased that your committee is holding hearings on this matter now. The House Ways and Means Committee, to which these bills have also been referred is expected to consider this legislation in the near future and the prospects for rapid action to solve this dispute between the Federal Government and 28 states is welcomed by all concerned parties.

Before commenting on the agreement with the states to resolve this issue, which is contingent upon the approval of Congress, I would like to outline the circumstances which led to the dispute.

##### BACKGROUND

In 1962, Congress amended the Social Security Act to provide Federal matching for social services to eligible persons under the Public Assistance Titles. These services were provided by other public agencies as well as by the Single State Agency responsible for administration of the state's public assistance program. The social services covered such areas as day care for children; protective services for neglected or abused children; drug and alcohol abuse services, family planning, counselling and a variety of services for aged, blind, or disabled persons. The availability of Federal matching was only conditioned by agreement with other public agencies that they were services which in the judgment of the state agency could not be as economically or as effectively provided by the state or local agency and were not otherwise reasonably available to individuals in need of them.

In 1967 the Congress broadened these provisions to allow for purchase of services from private agencies as well as public agencies subject to restrictions to be prescribed by the Secretary. Pursuant to these amendments, the Secretary published regulations which governed Federal matching for services under the Act as amended.

As late as 1969, about 85 percent of the \$354 million claimed under the Social Services program was for salaries and expenses of the employees of the Single State Agency engaged in traditional case work services. The remaining 15 percent



was for purchased services and most of this was for day care. However, about this time the picture changed.

States spurred by fiscal difficulties, saw an opportunity to expand the use of Federal funds by making claims for Federal matching for state expenditures for ongoing services.

They were encouraged in this by management consultant firms which helped them prepare State Plan Amendments and purchase-of-service agreements.

As a result of the increased use of the social services funding mechanism, the costs of the program increased dramatically and appeared likely to grow to several billion dollars per year.

In fact, estimates of the Federal share of fiscal year 1973 Social Service expenditures ballooned from \$1.3 billion submitted by the states in May 1972 to \$4.8 billion in August 1972.

In response to this development, Congress in 1972 established a limitation of \$2.5 billion per year on the Federal funding available for the program. In addition, the Department attempted to narrow the guidelines under which the program operated, and began to question many of the claims for reimbursement submitted by the States—including many claims which had previously been paid. The attempts of the Department to change the scope of the program were controversial, and Congress rewrote the legislation governing the program in amendments adopted at the end of 1974. These amendments established the new consolidated social services title (Title XX) of the Social Security Act which became effective on October 1, 1975.

#### CIRCUMSTANCES OF DISPUTE

For the period prior to the October 1, 1975, a large number of social services claims remain in dispute between the Department of Health, Education, and Welfare and 28 states. These disputed payments total approximately \$2.4 billion of which \$1.56 billion represent state claims that were never paid by HEW and the balance represent payments that had been made by HEW, but whose validity the Department challenged.

#### AGREEMENT WITH THE STATES

Shortly after he took office, Secretary Califano asked Under Secretary Champion to negotiate a settlement of this dispute as an alternative to years of litigation. The dispute has already resulted in years of expensive and inconclusive litigation between the states and the Federal Government, and it was a nagging irritant in the relations between HEW and the states. The agreement which we have reached removes a major, long-standing barrier to better Federal-State relations.

Under the agreement, subject to the approval of the Congress, the Department will not attempt to collect any claims previously paid but under dispute (approximately \$800 million.). In addition, the Federal Government will pay a portion of the pending unpaid claims according to a formula worked out in the negotiations. Under the bill, \$543 million would be authorized to be appropriated to settle the \$1.6 billion in unpaid claims still in dispute. The settlement formula is as follows:

If the unpaid claims are 85 percent or more of the total amount in dispute (unpaid claims plus amount for which HEW seeks repayment): 58 percent for the first \$50 million; 50 percent of the next \$100 million; and 21 percent of the remainder.

If the unpaid claims are less than 85 percent of the total amount in dispute (unpaid claims plus amount for which HEW seeks repayment): 38 percent of the first \$50 million; 35 percent of the next \$100 million; and 21 percent of the remainder.

Applied to the outstanding claims these formulae will result in a payment of \$531 million. The remaining \$12 million will be available to pay (at a 15 percent rate) any additional claims brought by the States during the period from April 15, 1977, through 90 days after the enactment of the bill. Any of the \$12 million which is not used would be available to increase the settlement of the existing claims of states claiming more than \$150 million. The states have agreed to the distribution formula and they also agreed that the total appropriation for the claims would not exceed \$543 million.

Mr. Chairman, that concludes my prepared remarks. My colleagues and I would be pleased to answer any questions you or other members of the subcommittee may have.

Mr. DANIELSON. Our next witness today will be Mr. Gregory Ahart of the General Accounting Office. Are you here, Mr. Ahart?



Mr. AHART. Right here.

Mr. DANIELSON. Fine. Would you come forward?

You do have a statement and a summary. Am I right?

Mr. AHART. That is correct, Mr. Chairman.

**TESTIMONY OF GREGORY J. AHART, DIRECTOR OF HUMAN RESOURCES DIVISION, GAO, ACCOMPANIED BY JAMES KELLY, ASSISTANT DIRECTOR OF HUMAN RESOURCES DIVISION, GAO; AND NEIL N. MILLER, SUPERVISORY AUDITOR, HUMAN RESOURCES DIVISION, GAO**

Mr. AHART. Let me introduce myself and my associates. I'm the Director of the Human Resources Division of the GAO. On my right is Mr. James Kelly, who is an Assistant Director of that division, and on my left is Neil Miller, of Mr. Kelley's staff.

Mr. DANIELSON. Excuse me. What's his name? Neil, N-e-i-l?

Mr. MILLER. Yes, sir.

Mr. DANIELSON. Because we do have a crackerjack of a reporter here, but names are sometimes spelled differently by different people.

OK. It's your show and proceed.

Mr. AHART. Thank you, Mr. Chairman. If I could, I'd like to file my statement for the record and briefly summarize it.

Mr. DANIELSON. Thank you. Without objection, Mr. Ahart's statement will be received in the record. In fact, the summary will also be received. And now if you'll just proceed in your most persuasive manner.

Mr. AHART. Thank you, Mr. Chairman.

As we were requested by the committee, we did provide a report to you 2 days ago which contains information relating to the social services claims that would be settled by the bill. Apparently from listening to the previous testimony, the members have seen that and are familiar with it. Our interest in providing that report and doing work on it was basically to see that the Congress has as much factual information relating to these claims as possible when being asked to pass this legislation, which would have the effect of settling them for all time.

I'd just like to point out briefly some basic facts about the settlement as proposed in the bill. First of all, the disputed claims covered will be settled without regard to their validity. Some of them have not been reviewed in detail by HEW. The States will receive from 23 to 58 percent of their unpaid claims and 100 percent of their paid claims, resulting in the States receiving from 50 to 100 percent of their total paid and unpaid disputed claims. The total benefit to each State depends largely on whether its claims are paid or unpaid, even though both paid and unpaid claims were disallowed by HEW for the same reasons. If HEW applied the formula to both the paid and unpaid claims, 28 States in total would repay \$85.7 million instead of HEW paying the States \$532 million.

I would like to set off for special mention the New York claims, which account for about \$2.4 billion of the \$3.4 billion being settled with the 28 States. Most of these claims are unique in that HEW has reviewed in detail only about \$233 million of the \$2.4 billion in disputed claims, but has reviewed all disputed claims in other States.



New York's claims involve December 1971, State plan amendments that HEW has never approved, and New York claimed some costs over its social services ceiling.

That's a very brief summary of the facts that we included in our report to you, Mr. Chairman, and I would just like to mention that we are interested also in the equity of these settlements. I think there are questions of equity and we're here to answer any of the questions that you might have.

Mr. DANIELSON. Well, I don't see any equity, but I think this has to turn on something called pragmatism. I just don't know. If you find some equity here, would you tell me what and where it is?

Mr. AHART. Well, it's not equal treatment to all States. They're basically in the same position, they have claims that were disallowed for basically the same reasons. We agree with the chair and we agree with HEW, that we do need to do something to settle what has been characterized here as quite a mess and something needs to be done to wipe that slate clean. We just wanted to make sure that the committee had before it as much factual information as we had gathered in our independent review of this matter and so it would be on the record.

Mr. DANIELSON. I appreciate that. I thank you for bringing it to us, because although we're probably going to have to take a bath of some kind here, we might as well know what kind of a bath we are taking. If you're going to get shot, you might as well know why, is the way I look at it. I really can't find anything I disagree with here in your findings. I hadn't read them until now, but I had gone through the file and I did look at your more detailed report. I just think that we have to settle it, but I'm worried about these States that are not a party to this, which are not going to receive a consideration.

Mr. AHART. Well, as I understand the situation, the 22 States that are not included and whatever territories and so on there might be in addition, have been on notice for some time that they could make claims. They have not made claims that have come into dispute, perhaps because HEW has not been in and reviewed their claims in detail. There may be some that are holding claims that they might wish to claim within 90 days after this bill is passed, if it's passed. They would be entitled to do so. As I read the provisions of the bill, however, on most claims they would be limited to not more than 15 percent allowance—out of a \$12 million contingency fund—and if more claims than 15 percent of \$12 million come in there would be a pro rata reduction, I think it's clear the bill would limit their rights.

Mr. DANIELSON. Are you an attorney?

Mr. AHART. I have been trained in law, yes, sir.

Mr. DANIELSON. Well, tell me this. Do you feel that the amount of notice that they have received is extensive enough so that failure to turn in claims by now would constitute a bar toward them turning them in in the future?

Mr. AHART. I don't know that I'd like to answer that without our Office of General Counsel studying it. I would say this, that there was a lot of publicity during the years 1972 and before on the ways in which the States could put under the social services umbrella and claim payment on a lot of services for which they had not been previously making claims. I think a lot of States took advantage of that and tried to get as much as they could before the cap was put on—the \$2.5 billion cap in 1972—so there is longstanding notice that Federal funds



were available. I don't know personally how much publicity this particular settlement has gotten or the particular bill. I would guess most States are on pretty clear notice that the bill is being considered by the Congress.

Mr. DANIELSON. To what extent are these claims older than June 30, 1972, and to what extent do they come in the 1972-75 period?

Mr. AHART. I know they go back to 1969. Let me ask Mr. Miller, if we have a breakout, about pre-1972.

Mr. MILLER. We do not have the claims aged like that.

Mr. DANIELSON. Well, if it's a burden, don't do it, but if it's easy, I wish you'd give us that information. I don't really have any questions.

Mr. MILLER. We will try to get the information.

Mr. KINDNESS. I have a lot of questions I find difficult to articulate.

I'd like to focus on a statement on page 2 of your statement, sir. The last paragraph on page 2 says:

Although the legislation would settle all claims for social services costs incurred before October 1, 1975, there would remain outstanding 60 disputed claims by 24 States totaling about \$391 million for social services costs incurred after October 1, 1975.

That's outside the scope of what we've been discussing earlier, but I take it that what's inferred by your statement is that they are claims of a very similar nature. Could you comment on that?

Mr. AHART. They would be claims of a similar nature. They would be claims that were made under title XX of the Social Security Act, which consolidated the social services provision under the old titles I, IV, VI, X, XIV, XVI, I believe, but they would be relatively small claims and it's a relatively small amount, relatively small and relatively recent. But the issues would basically be ones of a similar nature, such as whether the services were provided to eligible beneficiaries, or whether they were provided under approved State plans of title XX. These kinds of questions would be raised either when the initial claim was reviewed or when the HEW auditors go out and audit the claim on an after the fact basis. Very similar kinds of questions.

Mr. DANIELSON. Would the gentleman yield for a moment?

Mr. KINDNESS. Yes.

Mr. DANIELSON. I would take it, in this massive set of social programs, with all the money that's being generated by our levying taxes, turning it over to local government, there's bound to be disputes from time to time. It is almost inherent in this kind of business that every year there are going to be some disputed claims in which the Government's going to contend that something was paid out not in accordance with the approved plan or something went wrong. I don't see how you can handle this amount of money without something going wrong almost constantly. Hopefully, on the smallest possible scale, but nevertheless, these problems are just going to keep cropping up, I suppose, as long as we have the subvention of money from one government to another.

I yield back, but it seems to me you'll purge the system of some kind of disputed claims. It's like automobile accidents, they happen every day and I don't see how you can get around them.

Mr. KINDNESS. I would only add, Mr. Chairman, that we might be better off as a society if we restricted the amount of governmental involvement here and allow people to handle their own money.

Mr. DANIELSON. I heard you say something like that before.



Mr. KINDNESS. On page 4 of your statement, you note that "If HEW applied the formula to both the paid and unpaid claims, the 28 States in total would repay \$85.7 million," instead of HEW paying the States \$532 million. That's just involving these particular States. And it still doesn't have an equitable application, but among these 28 States. I would think that somewhere along the line here we're liable to encounter the attitude that some State says, "By golly, we're not making such a good deal after all," and as the chairman has pointed out, we don't really have a binding agreement that's in the works here. We could be making an offer that could very well be turned down when some State says, well, it can't be a good settlement agreement if the result of applying the formula in both directions would be as described on page 4 of your statement. I didn't have an opportunity to thoroughly examine the statements which were received well, I didn't have them before today. Was there any examination made by GAO of the settlement aspect, the techniques of settlement with the States on this and any recommendation as to how that ought to be effected?

Mr. AHART. We don't have any particular wisdom on that, Mr. Kindness. What we were trying to do in making the statement you read from our report was to premise the statement on the fact that the kinds of claims that we're settling by letting the States keep the money, and the kinds of claims that we're settling by paying them in part, where claims have not yet been paid, are the same kinds of claims subject to the same kinds of disputes, and it would strike me that it might be useful to look at it from the standpoint that if you have a settlement formula, apply that formula not only to the \$1.6 billion but to the additional \$830 million, which is the same kind of category. And just by way of illustration, if you do that, you come up with that kind of result. Now obviously, these States, which under the proposed bill, would get to keep 100 percent of the money that's in dispute—I think you're right, they would be more resistant to a settlement which would take some of that money away from them than they would be to a settlement that would let them keep the money. That would be, I think, only nine States. They've already been paid. I would guess that they'd be fairly amenable to this bill, which would allow them to keep all the money which has been paid and is in dispute. Again, our illustration is to show that if you take this formula and apply it to all claims, this would be the result.

Mr. KINDNESS. Thank you, sir.

Mr. DANIELSON. Mr. Mazzoli.

Mr. MAZZOLI. Thank you, Mr. Chairman.

Would you have any figures, sir, on how much of this money that we're thinking about paying out is being paid to States for their ineptitude or their downright mischievousness with respect to handling this money and how much might just result from good safe disputes about how money can be handled and how much is contracted out and that type of thing?

Mr. AHART. I don't think we'd have any particular wisdom Mr. Mazzoli, on what the breakdown would be. A lot of it, I would suspect, is money which is being claimed by the State in an effort to do the best job for their State in covering as much of their social service costs as they can with the Federal dollar and I think it's natural for the States to do that—to get what they possibly could within the law.



I think if I were in the State, I might look at the law and the regulations a little bit differently than I would if I was HEW and I might look to push it a little further. Some of these are borderline things, as to whether they are within the State plan, whether they are services which would be available in another program, if not funded under this one, and whether a particular individual is eligible under the Federal program as opposed to a State program. These are areas where there can be valid and legitimate disagreements and the interests of the parties are different. So I wouldn't want to put a number on it.

Mr. MAZZOLI. I'm not really sure how this came to pass, this agreement. Was this a percentage agreement of some kind? Do you know how the terms were arrived at? Was each State looked at differently or—

Mr. AHART. No, the percentages would apply the same to each State. There's one percentage that would apply to say \$50,000, I think, and another percentage that would apply to the next amount. Different percentages depending on whether or not more than 85 percent are unpaid claims and so on.

Mr. MAZZOLI. Totaling up to the \$532 million, something like that?

Mr. AHART. Except I think the process was probably somewhat reversed. I think the situation was that the judgment was made that we could find about \$543 million to buy our way out of this mess and I think the formula was probably derived to capture that much money.

Mr. MAZZOLI. We didn't work forward, we worked backwards, so this is just as much a figure pulled out of thin air as it is a figure of a scrutiny of the individual States' books, so if this committee would be of a mind to have that or drop a third of it off for good measure or something, there would be as much legitimacy in what we're doing, perhaps, as there was in contriving this figure of \$543 million.

Mr. AHART. I don't think there's anything sacred about the \$543 million or any of the percentages provided in the bill.

Mr. MAZZOLI. Thank you.

Mr. DANIELSON. I want to thank you again, the General Accounting Office, for giving us your report here. It's the kind of thing that's very helpful. You haven't solved any problems, but at least we know more about what we're talking about than we otherwise and that to me, at least, is a tremendously important contribution and I do thank you for it.

Sir, on the item of how many claims are older than—before the June 30, 1972, date and those which are in the intervening period, if you can get that to us without too big an effort, I would appreciate it. If it's going to strap you on something else, don't do it, because it's not that critical, but either get it to us or tell us you can't in the next few days. Would you do that?

Mr. AHART. We'll be glad to take a look and get back to Mr. Shattuck and talk about it.

Mr. DANIELSON. I don't want to stall on this bill. It's an important measure. But I think it would be very useful in the committee report.

Without objection, the GAO report will go into the record.

[The prepared statement of Mr. Ahart follows.]



STATEMENT OF GREGORY J. AHART, DIRECTOR, HUMAN RESOURCES DIVISION,  
GENERAL ACCOUNTING OFFICE

Mr. Chairman and members of the Subcommittee, I am pleased to appear here today to comment on HEW's proposed legislation (H.R. 10101) to authorize an appropriation to reimburse certain expenditures for social services provided by the States before October 1, 1975.

At the time the legislation was introduced, we were reviewing HEW's procedures for settling State claims under certain HEW programs, including the social services program. After the legislation was introduced, we were asked to provide information relating to the social services claims that would be settled if the proposed legislation were enacted. We did so in a report to the Chairman of the Committee on the Judiciary, on March 6, 1978. I will now summarize the information contained in our report.

Before October 1, 1975, social services costs were incurred under titles I, IV, VI, X, XIV and XVI of the Social Security Act. Since then, these costs have been incurred under title XX of the act, which established a new social services program.

The effect of the proposed legislation is to settle all claims for social services costs incurred by States before October 1, 1975, whether or not the claims are currently in dispute. These claims are comprised of 81 disputed claims by 28 States totaling about \$3.4 billion and all undisputed claims paid to States before October 1, 1975. According to HEW, the undisputed claims would no longer be subject to audit or review if the proposed legislation is enacted and any on-going audits or reviews of these claims would be terminated.

Although the legislation would settle all claims for social services costs incurred before October 1, 1975, there would remain outstanding 60 disputed claims by 24 States totaling about \$391 million for social services costs incurred after October 1, 1975.

Most of the claims disputes being settled occurred when HEW reviewed and disallowed the claims, either before or after they were paid, and the States requested HEW to reconsider the disallowances under its formal reconsideration process.

Faced with a large number and dollar amount of disputed claims outstanding, some of which have been in dispute since the early 1970's, HEW in March 1977 decided to negotiate settlement with 28 States which had disputed claims outstanding for costs incurred before October 1975. HEW's Office of the Undersecretary negotiated the settlement with the 28 States.

We noted the following about HEW's proposed settlement:

The disputed claims covered will be settled without regard to their validity.

The Office of Management and Budget advised HEW that about \$543 million could probably be obtained to settle the unpaid disputed claims.

The formula to be used for the settlement of unpaid claims is a modification by the States of an HEW proposal and will result in States receiving from 23 to 58 percent of their unpaid disputed claims.

The States would be paid or would keep from 50 to 100 percent of their total paid and unpaid disputed claims.

The total benefit to each State depends largely on whether its disputed claims are paid or unpaid even though both paid and unpaid claims were disallowed by HEW for the same reasons. For example, Illinois had paid claims totaling about \$188 million and Massachusetts had unpaid claims totaling about \$142 million which were all disallowed because reimbursement would have resulted in supplanting rather than supplementing State expenditures. Under the settlement, however, Illinois would keep the \$188 million and Massachusetts would receive \$75 million of the \$142 million.

If HEW applied the formula to both the paid and unpaid claims, the 28 States in total would repay \$85.7 million instead of HEW paying the States \$352 million.

HEW's financial records showed that as of September 13, 1977, the disputed claims for the 28 States totaled about \$2.6 billion for social services expenditures made from 1969 until October 1, 1975. HEW gave the States a listing showing the amounts on its records for each State's outstanding claims and asked them if the amounts were correct.

Through negotiations with the States, HEW's listing was revised to show what each State considered to be the correct amount of its claims to be settled. The revised listing showed a total of about \$2.4 billion (\$1.56 billion unpaid and \$830



million paid) compared to HEW's total of about \$2.6 billion. HEW accepted the revised amounts as the basis for negotiating the settlement, with the difference of about \$200 million on its records to be written off.

According to HEW, in negotiating the settlement, no attempt was made to determine the validity of the claims or to assess the merits of either HEW's or any State's position on any disputed claim. However, as part of the settlement, HEW is requiring the States to certify that the amounts claimed were actually spent.

On October 5, 1977, HEW announced that it had reached an agreement with the 28 States to resolve the \$2.4 billion in disputed claims. Under the terms of the agreement, 19 States with unpaid claims of \$1.56 billion would receive \$532 million distributed on a formula basis. Of the 19 States, 13 also had paid claims and would retain their portion of the \$830 million they had already received. The remaining nine States had only paid claims and likewise would retain their portion of the \$830 million.

According to HEW, it agreed to allow the States to keep the \$830 million because at the time of payment HEW believed the claims were valid. We determined, however, that the claims included in the \$830 million were not reviewed in detail by HEW to determine their validity before they were paid.

Seven New York claims account for about \$1.4 billion of the \$2.4 billion involved in the negotiated settlement. All claims by States other than New York included in the \$2.4 billion were in HEW's formal reconsideration process. However, of New York's \$1.4 billion in claims, only about \$233 million was in this process. According to HEW, the remaining \$1.17 billion was not reviewed in detail because it was claimed under State plan amendments submitted in December 1971 and was not allowable because the amendments were never approved. In July 1972, however, HEW paid New York about \$359 million of the \$1.17 billion in anticipation that the amendments would be approved.

The \$359 million is included in the \$830 million that HEW is allowing the States to keep in the proposed settlement. The remaining \$812 million of the \$1.17 billion was not paid by HEW and is part of the \$1.56 billion in unpaid claims to be settled. New York would be paid about 23 percent of this \$812 million.

In addition to the \$1.4 billion included in the negotiated settlement, seven other New York claims totaling about \$1.0 billion, for costs which exceeded the State's social services allotment ceiling during 1973-75 would be settled if the proposed legislation were enacted. Most of the \$1.0 billion is also for costs claimed under the State's unapproved plan amendments. According to HEW, however, these claims would not have been payable even if the amendments had been approved. Therefore, these claims are to be written off with no monetary effect to the Federal Government, whether or not the proposed legislation is enacted.

From October 1972 to March 1977, HEW and New York made numerous attempts to resolve the dispute over the unapproved plan amendments. At one point, HEW had an administrative law judge review the amendments, but he never made a decision on their approvability. Since March 1977 activity related to resolving this dispute has been suspended pending the outcome of the proposed settlement.



Enclosed with our statement are schedules showing (1) the amount and percentage of its total disputed claims each State would be paid or keep under the proposed settlement and (2) the effect of applying the settlement formula to both paid and unpaid claims versus just the unpaid claims.

Mr. Chairman, this concludes our statement. We will be happy to answer any questions that you or other Members of the Subcommittee might have.

AMOUNTS AND PERCENTAGES OF TOTAL DISPUTED CLAIMS—EACH STATE WOULD BE PAID OR WOULD KEEP

[Dollar amounts in millions]

| State                            | (1)<br>State claims<br>unpaid by<br>HEW | (2)<br>State claims<br>paid by HEW—<br>State keeps<br>money | (3)<br>Total paid<br>and unpaid<br>claims<br>(1) + (2) | (4)<br>Proposed<br>payment of<br>unpaid claims<br>to State under<br>formula <sup>1</sup> | (5)<br>Total State<br>would be paid<br>or would keep<br>(2) + (4) | (6)<br>Percentage of<br>total claims<br>State would be<br>paid or would<br>keep (5) + (3) |
|----------------------------------|-----------------------------------------|-------------------------------------------------------------|--------------------------------------------------------|------------------------------------------------------------------------------------------|-------------------------------------------------------------------|-------------------------------------------------------------------------------------------|
| Alabama.....                     |                                         | \$1.0                                                       | \$1.0                                                  |                                                                                          | \$1.0                                                             | 100                                                                                       |
| Alaska.....                      |                                         | .7                                                          | .7                                                     |                                                                                          | .7                                                                | 100                                                                                       |
| Arizona.....                     |                                         | 5.2                                                         | 5.2                                                    |                                                                                          | 5.2                                                               | 100                                                                                       |
| Arkansas <sup>2</sup> .....      | \$3.8                                   |                                                             | 3.8                                                    | \$2.2                                                                                    | 2.2                                                               | 58                                                                                        |
| California.....                  |                                         | 1.5                                                         | 1.5                                                    |                                                                                          | 1.5                                                               | 100                                                                                       |
| Connecticut <sup>2</sup> .....   | 38.0                                    | 6.0                                                         | 44.0                                                   | 22.0                                                                                     | 28.0                                                              | 64                                                                                        |
| Florida.....                     | 28.7                                    | 29.1                                                        | 57.8                                                   | 11.0                                                                                     | 40.1                                                              | 69                                                                                        |
| Georgia.....                     | .7                                      | 6.0                                                         | 6.7                                                    | .3                                                                                       | 6.3                                                               | 94                                                                                        |
| Idaho <sup>2</sup> .....         | 1.1                                     |                                                             | 1.1                                                    | .6                                                                                       | .6                                                                | 55                                                                                        |
| Illinois.....                    | 87.3                                    | 188.4                                                       | 275.7                                                  | 32.1                                                                                     | 220.5                                                             | 80                                                                                        |
| Kentucky.....                    |                                         | 2.4                                                         | 2.4                                                    |                                                                                          | 2.4                                                               | 100                                                                                       |
| Louisiana.....                   |                                         | 16.7                                                        | 16.7                                                   |                                                                                          | 16.7                                                              | 100                                                                                       |
| Maine <sup>2</sup> .....         | 2.2                                     |                                                             | 2.2                                                    | 1.3                                                                                      | 1.3                                                               | 59                                                                                        |
| Maryland <sup>2</sup> .....      | 24.7                                    |                                                             | 24.7                                                   | 14.3                                                                                     | 14.3                                                              | 58                                                                                        |
| Massachusetts <sup>2</sup> ..... | 142.0                                   |                                                             | 142.0                                                  | 75.0                                                                                     | 75.0                                                              | 53                                                                                        |
| Michigan <sup>2</sup> .....      | 57.1                                    | 8.4                                                         | 65.5                                                   | 32.6                                                                                     | 41.0                                                              | 63                                                                                        |
| Minnesota <sup>2</sup> .....     | 49.4                                    | 4.0                                                         | 53.4                                                   | 28.6                                                                                     | 32.6                                                              | 61                                                                                        |
| Missouri.....                    |                                         | .2                                                          | .2                                                     |                                                                                          | .2                                                                | 100                                                                                       |
| New Jersey <sup>2</sup> .....    | 1.3                                     |                                                             | 1.3                                                    | .7                                                                                       | .7                                                                | 54                                                                                        |
| New York.....                    | 914.0                                   | 490.0                                                       | 1,404.0                                                | 214.4                                                                                    | 704.4                                                             | 50                                                                                        |
| Ohio.....                        | 15.1                                    | 5.0                                                         | 20.1                                                   | 5.7                                                                                      | 10.7                                                              | 53                                                                                        |
| Oklahoma.....                    |                                         | 13.8                                                        | 13.8                                                   |                                                                                          | 13.8                                                              | 100                                                                                       |
| Pennsylvania.....                | 4.2                                     | 2.8                                                         | 7.0                                                    | 1.6                                                                                      | 4.4                                                               | 63                                                                                        |
| Rhode Island.....                |                                         | 1.2                                                         | 1.2                                                    |                                                                                          | 1.2                                                               | 100                                                                                       |
| Tennessee.....                   | ( <sup>3</sup> )                        | .5                                                          | .5                                                     |                                                                                          | .5                                                                | 100                                                                                       |
| Texas.....                       | 92.7                                    | 34.7                                                        | 127.4                                                  | 34.0                                                                                     | 68.7                                                              | 54                                                                                        |
| Washington <sup>2</sup> .....    | 32.8                                    | 5.6                                                         | 38.4                                                   | 19.0                                                                                     | 24.6                                                              | 64                                                                                        |
| Wisconsin <sup>2</sup> .....     | 65.0                                    | 6.3                                                         | 71.3                                                   | 36.5                                                                                     | 42.8                                                              | 60                                                                                        |
| Total.....                       | 1,560.1                                 | 829.5                                                       | 2,389.6                                                | 531.9                                                                                    | 1,361.4                                                           | 57                                                                                        |

<sup>1</sup> If the unpaid claims are 85 percent or more of the total amount in dispute (paid and unpaid claims), the formula is 58 percent of the 1st \$50,000,000; 50 percent of the next \$100,000,000; and 21 percent of the remainder. If the unpaid claims are less than 85 percent of the total amount in dispute, the formula is 38 percent of the 1st \$50,000,000; 35 percent of the next \$100,000,000; and 21 percent of the remainder.

<sup>2</sup> The States to which the higher formula in footnote 1 applies.

<sup>3</sup> Tennessee has unpaid claims of only \$4,000.



## HEW'S PROPOSAL VERSUS APPLYING THE FORMULA TO ALL CLAIMS

[In millions of dollars]

| State              | HEW proposal                                             |                                                | Effect of applying same formula to all claims |                |
|--------------------|----------------------------------------------------------|------------------------------------------------|-----------------------------------------------|----------------|
|                    | Proposed payment of unpaid claims to State under formula | State claims paid by HEW—<br>State keeps money | HEW pays State                                | State pays HEW |
| Alabama.....       |                                                          | 1.0                                            |                                               | 0.4            |
| Alaska.....        |                                                          | .7                                             |                                               | .6             |
| Arizona.....       |                                                          | 5.2                                            |                                               | 3.2            |
| Arkansas.....      | 2.2                                                      |                                                | 2.2                                           |                |
| California.....    |                                                          | 1.5                                            |                                               | .9             |
| Connecticut.....   | 22.0                                                     | 6.0                                            | 19.5                                          |                |
| Florida.....       | 11.0                                                     | 29.1                                           |                                               | 7.4            |
| Georgia.....       | .3                                                       | 6.0                                            |                                               | 3.5            |
| Idaho.....         | .6                                                       |                                                | .6                                            |                |
| Illinois.....      | 32.1                                                     | 188.4                                          |                                               | 108.0          |
| Kentucky.....      |                                                          | 2.4                                            |                                               | 1.5            |
| Louisiana.....     |                                                          | 16.7                                           |                                               | 10.4           |
| Maine.....         | 1.3                                                      |                                                | 1.3                                           |                |
| Maryland.....      | 14.3                                                     |                                                | 14.3                                          |                |
| Massachusetts..... | 75.0                                                     |                                                | 75.0                                          |                |
| Michigan.....      | 32.6                                                     | 8.4                                            | 28.4                                          |                |
| Minnesota.....     | 28.6                                                     | 4.0                                            | 26.7                                          |                |
| Missouri.....      |                                                          | .2                                             |                                               | .1             |
| New Jersey.....    | .7                                                       |                                                | .7                                            |                |
| New York.....      | 214.4                                                    | 490.0                                          |                                               | 172.7          |
| Ohio.....          | 5.7                                                      | 5.0                                            | 2.6                                           |                |
| Oklahoma.....      |                                                          | 13.8                                           |                                               | 8.6            |
| Pennsylvania.....  | 1.6                                                      | 2.8                                            |                                               | .1             |
| Rhode Island.....  |                                                          | 1.2                                            |                                               | .7             |
| Tennessee.....     | ( <sup>1</sup> )                                         | .5                                             |                                               | .3             |
| Texas.....         | 34.0                                                     | 34.7                                           | 11.4                                          |                |
| Washington.....    | 19.0                                                     | 5.6                                            | 16.7                                          |                |
| Wisconsin.....     | 36.5                                                     | 6.3                                            | 33.3                                          |                |
| Total.....         | 531.9                                                    | 829.5                                          | 232.7                                         | 318.4          |

<sup>1</sup> Tennessee has unpaid claims of only \$4,000 and would be paid only \$1,500.

Net amount States would pay HEW if formula were applied to all claims (\$318.4 minus \$232.7)..... \$85.7

Under HEW's proposal States would receive..... 531.9

If formula were applied to all claims, States would pay..... 85.7

Total benefit to HEW if formula were applied to all claims..... 617.6

STATEMENT OF GREGORY J. AHART, DIRECTOR, HUMAN RESOURCES DIVISION,  
GENERAL ACCOUNTING OFFICE

As requested, we provided in a report to the Chairman of the Committee on the Judiciary dated March 6, 1978, information relating to the social services claims that would be settled if the proposed legislation were enacted. A brief summary of the information contained in our report on which we will testify today follows.

The effect of the proposed legislation is to settle all claims for social services costs incurred by States before October 1, 1975, whether or not the claims are currently in dispute. These claims are comprised of 81 disputed claims by 28 totaling about \$3.4 billion (some paid and some unpaid) and all undisputed claims paid to all States before October 1, 1975.

Although the legislation would settle all claims for social services costs incurred before October 1, 1975, there would remain outstanding 60 disputed claims by 24 States totaling about \$391 million for social services costs incurred after October 1, 1975.

On October 5, 1977, HEW announced that it had reached agreement with the 28 States to resolve disputed claims for expenditures incurred before October 1, 1975. We noted the following about HEW's proposed settlement:

The disputed claims covered will be settled without regard to their validity.

The States will receive from 23 to 58 percent of their unpaid claims and 100 percent of their paid claims resulting in the States receiving from 50 to 100 percent of their total paid and unpaid claims.

The total benefit to each State depends largely on whether its claims are paid or unpaid even though both paid and unpaid claims were disallowed by HEW for the same reasons.



If HEW applied the formula to both the paid and unpaid claims, the 28 States in total would repay \$85.7 million instead of HEW paying the States \$532 million.

New York claims account for about \$2.4 billion of the \$3.4 billion being settled with the 28 States. Most of New York's claims are unique in that

HEW has reviewed in detail only about \$233 million of New York's \$2.4 billion in disputed claims but has reviewed all disputed claims by other States.

New York's claims involve December 1971 State plan amendments that HEW has never approved, and

New York claimed some costs over its social services ment ceiling.

U.S. GENERAL ACCOUNTING OFFICE,  
HUMAN RESOURCES DIVISION,  
Washington, D.C., March 6, 1978.

HON. PETER W. RODINO, Jr.,  
Chairman, Committee on the Judiciary,  
House of Representatives.

DEAR MR. CHAIRMAN: On January 27, 1978, we briefed a staff member of the Subcommittee on Administrative Law and Governmental Relations on our ongoing review of the Department of Health, Education, and Welfare's (HEW) system for settling certain disputed State claims. Following the briefing, we were asked to provide information for use in considering H.R. 10101, to supplement the information provided your Committee by HEW. This bill would authorize an appropriation to reimburse certain expenditures for social services provided by the States before October 1, 1975.

According to HEW, if enacted, this bill would settle States' claims for reimbursement of social services costs, whether or not the claims are currently in dispute. Until October 1, 1975, these costs were incurred under titles I, IV, VI, X, XIV, and XVI of the Social Security Act. Since then, social services costs have been incurred under title XX of the act, which established a new social services program.

In addition to the information provided by HEW on the proposed settlement, we are providing information about

The total claims outstanding as of June 1977,

The nature of the claims being settled,

The unique aspects of New York's large claims,

The claims for costs incurred after October 1, 1975, which will remain outstanding after the settlement, and

The effect of the settlement on undisputed paid claims.

#### TOTAL CLAIMS OUTSTANDING

HEW's records showed that there were 141 claims totaling about \$3.988 billion for social services costs that were deferred or disallowed by HEW and were outstanding as of June 1977. These claims are comprised of

Seventy-four disputed claims by 28 States totaling about \$2.576 billion reported by HEW as the claims being settled;

Seven claims by New York totaling about \$1.021 billion which, according to HEW, will be written off with no monetary effect to the Federal Government; and

Sixty disputed claims by 24 States totaling about \$391 million for costs incurred after October 1, 1975, which will remain outstanding after the settlement.

#### NATURE OF DISPUTED CLAIMS BEING SETTLED

Most of the disputed claims being settled occurred when HEW disallowed them, either before or after they were paid, and the States requested HEW to reconsider the disallowances. HEW disallows a claim based on its review of a State's claim when it is submitted or on an audit or review made after the claim has been paid. If, based on a State's request, HEW reconsiders and upholds the disallowance, States can appeal to the Federal courts. HEW's reconsideration process and litigation in the courts are the formal processes for settling disputed claims. Some of New York's disputed claims involve the approvability of State plan amendments rather than HEW disallowances based on a review of expenditures. (See p. 5.)

Faced with a large number and dollar amount of disputed claims outstanding, some of which have been in dispute since the early 1970's, HEW in March 1977 decided to negotiate a settlement with 28 States which had claims outstanding for



costs incurred before October 1975. An HEW official said that it was decided to negotiate a settlement with the States because otherwise several years and numerous and expensive court proceedings would be required to resolve these disputes. From August 1975 to mid-January 1978, HEW settled only seven disputed social services claims totaling about \$2 million.

HEW's Office of the Undersecretary negotiated the settlement with the 28 States. According to HEW, in negotiating the settlement, no attempt was made to determine the validity of the claims or to assess the merits of either HEW's or any State's position on any disputed claim. However, as part of the settlement, HEW is requiring the States to certify that the amounts claimed were actually spent.

HEW's financial records showed that as of September 13, 1977, the disputed claims for the 28 States totaled about \$2.576 billion for social services expenditures made from 1969 until October 1, 1975. This amount includes \$1.738 billion which HEW had not paid the States and \$838 million which it had paid. HEW gave the States a listing showing the amounts on its records for each State's outstanding claims, and asked them if the amounts were correct.

Through negotiations, HEW's listing was revised to show what each State considered to be the correct amount of its claims to be settled. The revised listing showed a total of \$2.390 billion (\$1.560 billion unpaid and \$830 million paid) compared to HEW's total of \$2.576 billion. HEW accepted the revised amounts as the basis for negotiating the settlement, with the difference of \$186 million on its records (\$2.576 billion-\$2.390 billion) to be written off. According to an HEW official, each of the 28 States will be required to submit a certification of its claims signed by the State Governor.

On October 5, 1977, HEW announced that it had reached an agreement with the 28 States to resolve the \$2.390 billion in disputed claims. As reported by HEW, under the terms of the agreement, 19 States with unpaid claims of \$1.560 billion would receive \$532 million distributed on a formula basis. Of the 19 States, 13 also had paid claims and would retain their portion of the \$830 million they had already received. The remaining nine States had only paid claims and likewise would retain their portion of the \$830 million. Enclosure I shows the amounts and percentages of the total disputed claims (paid and unpaid) each State would be paid or would keep.

An HEW official told us that HEW agreed to allow the States to keep the \$830 million because at the time of payment HEW believed the claims were valid. We determined, however, that the claims included in the \$830 million were not reviewed in detail by HEW to determine their validity before they were paid. One paid New York claim for about \$359 million has never been reviewed in detail. This claim is discussed on page 5.

According to HEW, because of limited staff, not all States' claims are reviewed in detail when they are submitted. Claims paid without detailed review are paid subject to postaudit or follow-up review. The paid claims included in the proposed settlement were not disallowed at the time they were submitted. HEW disallowed most of these claims based on audits or reviews made after they were paid. The States then asked for reconsideration of the disallowances. Conversely, HEW reviewed and disallowed most of the unpaid claims when they were submitted and the States then asked for reconsideration of the disallowances. The exceptions to these procedures are New York's claims which are discussed on page 5.

Regarding HEW's proposed settlement, we noted the following:

The disputed claims covered will be settled without regard to their validity.

The Office of Management and Budget advised HEW that about \$543 million could probably be obtained to settle the unpaid claims.

The formula to be used for the settlement of unpaid claims is a modification by the States of an HEW proposal and will result in States receiving from 23 to 58 percent of their unpaid claims.

The States would be paid or would keep from 50 to 100 percent of their total paid and unpaid claims. (See enc. I.)

Both paid and unpaid claims were disallowed by HEW for the same reasons, such as expenditures for services not covered by approved State plans. The total benefit to each State under the proposed settlement depends solely on whether its claims are paid or unpaid. For example, Illinois had paid claims totaling about \$188 million and Massachusetts had unpaid claims totaling about \$142 million which were all disallowed because reimbursement would have resulted in supplanting rather than supplementing State expenditures. Under the agreement, Illinois would keep the \$188 million and Massachusetts would receive \$75 million of the \$142 million.



If HEW applied the formula to both the paid and unpaid claims the 28 States in total would repay \$85.7 million. Enclosure II shows the amount each State would keep or receive under HEW's agreement compared to the amount each would receive or pay if the formula were applied to all claims.

#### UNIQUE ASPECTS OF NEW YORK'S LARGE CLAIMS

Seven New York claims account for \$1.404 billion of the \$2.390 billion involved in the settlement negotiated with the 28 States. According to HEW, in addition to the \$1.404 billion, seven other New York claims totaling \$1.021 billion would be settled if the proposed legislation were enacted. An HEW official said these claims would be settled because they are for costs incurred before October 1, 1975, and the effect of the legislation is to settle all such claims. The following table shows the total number and amount of New York's claims being settled.

|                                                                                                   | Number | Amount<br>(billions) |
|---------------------------------------------------------------------------------------------------|--------|----------------------|
| Included in the \$2,390,000,000 negotiated settlement.....                                        | 7      | \$1.404              |
| Claims for costs which exceeded the State's social services allotment ceiling during 1973-75..... | 7      | 1.021                |
| Total.....                                                                                        | 14     | 2.425                |

<sup>1</sup> New York claimed the amounts that exceeded its social services allotment ceilings as contingent claims to offset any future disallowances of amounts claimed to reach its annual ceiling.

All claims by States other than New York included in the \$2.390 billion were in HEW's formal reconsideration process. However, of New York's \$1.404 billion in claims, only about \$233 million was in this process. According to HEW, the remaining \$1.171 billion was not reviewed in detail because it was claimed under State plan amendments submitted in December 1971 and was not allowable because the amendments were never approved. In July 1972, however, HEW paid New York about \$359 million for the initial claim of the \$1.171 billion in anticipation that the amendments would be approved. The \$359 million is included in the \$830 million that HEW is allowing the States to keep in the proposed settlement. The remaining \$812 million of the \$1.171 billion was not paid by HEW and is part of the \$1.560 billion in unpaid claims to be settled. New York will be paid about 23 percent of this \$812 million.

Most of the \$1.021 billion for amounts that exceeded the ceiling is also for costs claimed under the State's unapproved plan amendments. According to HEW, however, these claims would not have been payable even if the amendments had been approved. Therefore, these claims are to be written off with no monetary effect to the Federal Government, whether or not the proposed legislation is enacted.

From October 1972 to March 1977 HEW and New York made numerous attempts to resolve the dispute over the unapproved plan amendments. At one point HEW had an administrative law judge review the amendments, but he never made a decision on their approvability. Since March 1977 activity related to resolving this dispute has been suspended pending the outcome of the proposed settlement. Enclosure III shows the chronology of events relating to New York's unapproved social services plan amendments.

#### CLAIMS TO REMAIN OUTSTANDING AFTER THE SETTLEMENT

If the proposed legislation is enacted and claims are settled as proposed by HEW, some disputed claims for costs incurred after October 1, 1975, would remain outstanding. The following table summarizes the effect of the settlement.

|                                         | Number | Amount<br>(billions) |
|-----------------------------------------|--------|----------------------|
| Total claims outstanding.....           | 141    | \$3.988              |
| Less total claims to be settled.....    | 81     | 1.3.597              |
| Total claims to remain outstanding..... | 60     | .391                 |

<sup>1</sup> Comprised of \$2,576,000,000 on HEW's records involved in the negotiated settlement, plus \$1,021,000,000 of New York claims to be written off.



We also identified 269 disputed claims totaling \$355 million for costs other than social services claimed primarily under the Medicaid and Aid to Families with Dependent Children (AFDC) programs. We are reviewing HEW's procedures for settling claims under the social services, Medicaid, AFDC, and certain other programs and plan to issue a report to the Congress on the results.

#### EFFECT OF SETTLEMENT ON UNDISPUTED PAID CLAIMS

According to HEW, the purpose of the proposed legislation is to "wipe the slate clean" of all social services claims for expenditures made by States before October 1 1975, whether or not the claims are currently in dispute.

In addition to the claims totaling \$3.597 billion to be settled, the States were paid about \$6.061 billion for undisputed claims from July 1971 through September 1975. According to HEW, the \$6,601 billion in claims would no longer be subject to audit or review if the proposed legislation is enacted and any on-going audits or reviews of these claims would be terminated.

We did not obtain written comments on this report from HEW; however, we discussed its contents with HEW officials.

We are sending this same report to the Chairman of the Senate Finance and the House Ways and Means Committee because the same legislation was referred to them for consideration. We are also sending a copy of the report to the Chairman of your Subcommittee on Administrative Law and Governmental Relations. Also, as arranged with the Subcommittee, we are sending copies to the Acting Director, Office of Management and Budget; the Secretary of HEW; and will send copies to other interested parties upon request.

We trust the information in this report will be helpful to your Committee in considering the proposed legislation.

Sincerely yours,

Enclosures, three.

GREGORY J. AHART, *Director.*

#### AMOUNTS AND PERCENTAGES OF TOTAL DISPUTED CLAIMS—EACH STATE WOULD BE PAID OR WOULD KEEP (Dollar amounts in millions)

| State                      | (1)<br>State claims<br>unpaid by<br>HEW | (2)<br>State claims<br>paid by HEW—<br>State keeps<br>money | (3)<br>Total paid<br>and unpaid<br>claims<br>(1) + (2) | (4)<br>Proposed<br>payment of<br>unpaid claims<br>to State under<br>formula <sup>1</sup> | (5)<br>Total State<br>would be paid<br>or would keep<br>(2) + (4) | (6)<br>Percentage of<br>total claims<br>State would be<br>paid or would<br>keep (5) + (3) |
|----------------------------|-----------------------------------------|-------------------------------------------------------------|--------------------------------------------------------|------------------------------------------------------------------------------------------|-------------------------------------------------------------------|-------------------------------------------------------------------------------------------|
| Alabama                    |                                         | \$1.0                                                       | \$1.0                                                  |                                                                                          | \$1.0                                                             | 100                                                                                       |
| Alaska                     |                                         | .7                                                          | .7                                                     |                                                                                          | .7                                                                | 100                                                                                       |
| Arizona                    |                                         | 5.2                                                         | 5.2                                                    |                                                                                          | 5.2                                                               | 100                                                                                       |
| Arkansas <sup>2</sup>      | \$3.8                                   |                                                             | 3.8                                                    | \$2.2                                                                                    | 2.2                                                               | 58                                                                                        |
| California                 |                                         | 1.5                                                         | 1.5                                                    |                                                                                          | 1.5                                                               | 100                                                                                       |
| Connecticut <sup>2</sup>   | 38.0                                    | 6.0                                                         | 44.0                                                   | 22.0                                                                                     | 28.0                                                              | 64                                                                                        |
| Florida                    | 28.7                                    | 29.1                                                        | 57.8                                                   | 11.0                                                                                     | 40.1                                                              | 69                                                                                        |
| Georgia                    | .7                                      | 6.0                                                         | 6.7                                                    | .3                                                                                       | 6.3                                                               | 94                                                                                        |
| Idaho <sup>2</sup>         | 1.1                                     |                                                             | 1.1                                                    | .6                                                                                       | .6                                                                | 55                                                                                        |
| Illinois                   | 87.3                                    | 188.4                                                       | 275.7                                                  | 32.1                                                                                     | 220.5                                                             | 80                                                                                        |
| Kentucky                   |                                         | 2.4                                                         | 2.4                                                    |                                                                                          | 2.4                                                               | 100                                                                                       |
| Louisiana                  |                                         | 16.7                                                        | 16.7                                                   |                                                                                          | 16.7                                                              | 100                                                                                       |
| Maine <sup>2</sup>         | 2.2                                     |                                                             | 2.2                                                    | 1.3                                                                                      | 1.3                                                               | 59                                                                                        |
| Maryland <sup>2</sup>      | 24.7                                    |                                                             | 24.7                                                   | 14.3                                                                                     | 14.3                                                              | 58                                                                                        |
| Massachusetts <sup>2</sup> | 142.0                                   |                                                             | 142.0                                                  | 75.0                                                                                     | 75.0                                                              | 53                                                                                        |
| Michigan <sup>2</sup>      | 57.1                                    | 8.4                                                         | 65.5                                                   | 32.6                                                                                     | 41.0                                                              | 63                                                                                        |
| Minnesota <sup>2</sup>     | 49.4                                    | 4.0                                                         | 53.4                                                   | 28.6                                                                                     | 32.6                                                              | 61                                                                                        |
| Missouri                   |                                         | .2                                                          | .2                                                     |                                                                                          | .2                                                                | 100                                                                                       |
| New Jersey <sup>2</sup>    | 1.3                                     |                                                             | 1.3                                                    | .7                                                                                       | .7                                                                | 54                                                                                        |
| New York                   | 914.0                                   | 490.0                                                       | 1,404.0                                                | 214.4                                                                                    | 704.4                                                             | 50                                                                                        |
| Ohio                       | 15.1                                    | 5.0                                                         | 20.1                                                   | 5.7                                                                                      | 10.7                                                              | 53                                                                                        |
| Oklahoma                   |                                         | 13.8                                                        | 13.8                                                   |                                                                                          | 13.8                                                              | 100                                                                                       |
| Pennsylvania               | 4.2                                     | 2.8                                                         | 7.0                                                    | 1.6                                                                                      | 4.4                                                               | 63                                                                                        |
| Rhode Island               |                                         | 1.2                                                         | 1.2                                                    |                                                                                          | 1.2                                                               | 100                                                                                       |
| Tennessee                  | (9)                                     | .5                                                          | .5                                                     |                                                                                          | .5                                                                | 100                                                                                       |
| Texas                      | 92.7                                    | 34.7                                                        | 127.4                                                  | 34.0                                                                                     | 68.7                                                              | 54                                                                                        |
| Washington <sup>2</sup>    | 32.8                                    | 5.6                                                         | 38.4                                                   | 19.0                                                                                     | 24.6                                                              | 64                                                                                        |
| Wisconsin <sup>2</sup>     | 65.0                                    | 6.3                                                         | 71.3                                                   | 36.5                                                                                     | 42.8                                                              | 60                                                                                        |
| Total                      | 1,560.1                                 | 829.5                                                       | 2,389.6                                                | 531.9                                                                                    | 1,361.4                                                           | 57                                                                                        |

<sup>1</sup> If the unpaid claims are 85 percent or more of the total amount in dispute (paid and unpaid claims), the formula is 58 percent of the 1st \$50,000,000, 50 percent of the next \$100,000,000, and 21 percent of the remainder. If the unpaid claims are less than 85 percent of the total amount in dispute, the formula is 38 percent of the 1st \$50,000,000; 35 percent of the next \$100,000,000, and 21 percent of the remainder.

<sup>2</sup> The States to which the higher formula in footnote 1 applies.

<sup>3</sup> Tennessee has unpaid claims of only \$4,000.



## HEW'S PROPOSAL VERSUS APPLYING THE FORMULA TO ALL CLAIMS

[In millions of dollars]

| State         | HEW proposal                                             |                                            | Effect of applying same formula to all claims |                |
|---------------|----------------------------------------------------------|--------------------------------------------|-----------------------------------------------|----------------|
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| Alabama       |                                                          | 1.0                                        |                                               | 0.6            |
| Alaska        |                                                          | .7                                         |                                               | .4             |
| Arizona       |                                                          | 5.2                                        |                                               | 3.2            |
| Arkansas      | 2.2                                                      |                                            | 2.2                                           |                |
| California    |                                                          | 1.5                                        |                                               | .9             |
| Connecticut   | 22.0                                                     | 6.0                                        | 19.5                                          |                |
| Florida       | 11.0                                                     | 29.1                                       |                                               | 7.4            |
| Georgia       | .3                                                       | 6.0                                        |                                               | 3.5            |
| Idaho         | .6                                                       |                                            | .6                                            |                |
| Illinois      | 32.1                                                     | 188.4                                      |                                               | 108.0          |
| Kentucky      |                                                          | 2.4                                        |                                               | 1.5            |
| Louisiana     |                                                          | 16.7                                       |                                               | 10.4           |
| Maine         | 1.3                                                      |                                            | 1.3                                           |                |
| Maryland      | 14.3                                                     |                                            | 14.3                                          |                |
| Massachusetts | 75.0                                                     |                                            | 75.0                                          |                |
| Michigan      | 32.6                                                     | 8.4                                        | 28.4                                          |                |
| Minnesota     | 28.6                                                     | 4.0                                        | 26.7                                          |                |
| Missouri      |                                                          | .2                                         |                                               | .1             |
| New Jersey    | .7                                                       |                                            | .7                                            |                |
| New York      | 214.4                                                    | 490.0                                      |                                               | 172.7          |
| Ohio          | 5.7                                                      | 5.0                                        | 2.6                                           |                |
| Oklahoma      |                                                          | 13.8                                       |                                               | 8.6            |
| Pennsylvania  | 1.6                                                      | 2.8                                        |                                               | .1             |
| Rhode Island  |                                                          | 1.2                                        |                                               | .7             |
| Tennessee     | (1)                                                      | .5                                         |                                               | .3             |
| Texas         | 34.0                                                     | 34.7                                       | 11.4                                          |                |
| Washington    | 19.0                                                     | 5.6                                        | 16.7                                          |                |
| Wisconsin     | 36.5                                                     | 6.3                                        | 33.3                                          |                |
| Total         | 531.9                                                    | 829.5                                      | 232.7                                         | 318.4          |

<sup>1</sup> Tennessee has unpaid claims of only \$4,000 and would be paid only \$1,500.

Net amount States would pay HEW if formula were applied to all claims (\$318.4 minus \$232.7)..... \$85.7

Under HEW's proposal States would receive..... 531.9

If formula were applied to all claims, States would pay..... 85.7

Total benefit to HEW if formula were applied to all claims..... 617.6

## CHRONOLOGY OF EVENTS SURROUNDING NEW YORK'S DECEMBER 1971 SOCIAL SERVICES STATE PLAN AMENDMENTS

December 1971, State submitted plan amendments to HEW Region II.

January 1972, Regional Commissioner acknowledged receipt of the State's plan amendments.

June 1972, Claim totaling about \$359 million submitted against the as yet unapproved plan amendments. This claim was routinely paid.

October 1972, HEW began questioning approvability of the amendments. The State continued to submit claims which were not paid.

April 1973, State hired a Certified Public Accounting firm to reconstruct its records on the claims.

May 1973, HEW Region II wanted to review the method used to reconstruct the State's records on the claims, but the State refused. State later (in the fall of 1973) submitted a summary of the reconstructed records to the region.

September 1973, HEW Regional Commissioner recommended disapproval of the plan amendments.

December 1973, Governor Rockefeller requested the assistance of the Secretary of HEW in resolving the problems associated with the State's plan amendments.

December 1973 through March 1974, Numerous HEW-State meetings held to review the amendments.

January 1974, The Secretary of HEW sent a letter to Governor Wilson stating that HEW expected to make a determination on the approvability of the amendments upon final resolution of the legal issues by the HEW General Counsel.

March 1974, The Secretary of HEW sent a letter to Governor Wilson stating that the review of the plan amendments would be completed by the end of March.



March 1974, HEW headquarters' staff reviewed the amendments and prepared a summary on its analysis. The staff recommended that certain sections of the amendments be disapproved and other sections be approved only if the State submitted appropriate explanations, deletions, or limitations.

Mid-1974, The case was turned over to an administrative law judge, who was to make a recommendation to HEW as to the approvability of the plan amendments. No decision was ever made.

July 1974, HEW sent a letter to the State informing it of HEW's decision to disapprove the plan amendments.

March 1976, HEW decided to conduct a limited review of the State's claims. HEW and the State entered into a written agreement to exclude the claims from HEW's formal review and disallowance process.

March 1977, HEW began discussions on the possibility of a settlement for all social services claims at issue before October 1, 1975. Therefore, activity relating to the State's plan amendments was suspended.

Mr. DANIELSON. Mr. Eidenberg, I'd like to ask you one question, if I may, if you would come forward.

Could you or your associates let us know what is the practice, what is the established procedure in this respect. How long after expenditures are made by a State does it take before they file their claim for obtaining it?

Mr. EIDENBERG. I'll get you that information and our report on the other questions will include that.

Mr. DANIELSON. I have this in mind. October 1, 1975, is the cut off date in the bill. Now, that's already nearly 2½ years ago. If I were running this aspect of the State, we'd get the bill in awfully fast, I mean, as quickly as possible, and in 2½ years, there is at least a probability that any claims will have been turned in.

Mr. EIDENBERG. That's our belief as well.

Mr. DANIELSON. But can you please give us what the practice is and on the other side of that same example, would you let us know what is the longest time that has lapsed that you can readily determine? There may be some value in that. I don't know, but it could have some kind of value. Can you get that to us?

Mr. EIDENBERG. We surely will try.

Mr. DANIELSON. And as quickly as possible. We do want to move along here. I thank you, Mr. Eidenberg.

Now we'll call on Mr. Charles Miller. Would you come forward, please, and identify yourself for the record.

**TESTIMONY OF CHARLES A. MILLER, ATTORNEY AT LAW WITH  
THE FIRM OF COVINGTON & BURLING, WASHINGTON, D.C., LEGAL  
COUNSEL FOR CERTAIN STATES IN DISPUTED CLAIMS WITH HEW**

Mr. MILLER. Mr. Chairman, members of the committee, my name is Charles Miller. I am an attorney with the firm of Covington & Burling in Washington. I have served as legal counsel to many of the States that have these disputes that you're considering today. We represented the States that were involved in the case of *Florida v. Matthews*. In connection with the settlement discussions, my firm and I have acted at the requests of the States as liaison with HEW in negotiations and in the subsequent implementation of the settlement agreements and it is in that capacity that I was asked to speak this afternoon to this committee.

Mr. Chairman, I submitted, per the committee's request, in advance, a statement, which you have, and also a summary of that statement.



Mr. DANIELSON. I do have, Mr. Miller, and so does each member have a copy of your statement and a copy of the summary, for which, incidentally, I thank you. I think it has the points of your argument here on one sheet of paper, and without objection, they will be received in the record.

[The prepared statement of Mr. Miller follows:]

#### STATEMENT OF CHARLES A. MILLER

Mr. Chairman and members of the committee, my name is Charles A. Miller. I am an attorney with the firm of Covington & Burling in Washington, and I have been representing a number of states in connection with the disputes between them and HEW over this social services claims that are the subject of H.R. 10101. I have also acted as liaison with HEW on behalf of the states in connection with the negotiation and implementation of the settlement of the disputes that is reflected in the pending legislation.

I appreciate the opportunity afforded by the Subcommittee to appear today on behalf of the states to discuss H.R. 10101. I will not repeat what Mr. Eidenberg has said but will simply supplement his comments to explain why the states feel the settlement embodied in H.R. 10101 is a sound solution of this long-standing and very complex problem.

At issue are claims totaling several billion dollars for the federal share of the cost of social services provided to needy people pursuant to the public assistance titles of the Social Security Act as they existed prior to October 1, 1975. On that date a new Title XX of the Act became effective which superseded the social services provisions that had been embodied in other public assistance titles. Title XX contains a substantial rewrite of the social services provisions and has not given rise to the kinds of disputes that arose under the earlier provisions.

The claims to which H.R. 10101 relates cover expenditures for services actually provided and thus seek reimbursement for state funds already spent. The disputes have centered on whether the state expenditures qualify for federal reimbursement.

Of the amounts in dispute, approximately \$1.6 billion represents claims that have been deferred or disallowed by HEW and have not been paid. Approximately \$825 million represents claims that were paid but which HEW has formally disallowed and seeks to recover. There are additional undetermined but substantial amounts previously paid by HEW which have been or could be the subject of audit exceptions or other reviews, but which have not yet been formally disallowed by HEW. All of these categories are covered by the settlement.

Mr. Eidenberg has explained how the combination of statutory amendments in 1962 and 1967, HEW encouragement to states to expand their services programs, and state fiscal pressures contributed to a major increase in the size of the federal social services program. I would add that in 1969 and 1970 HEW adopted a series of broad regulations applicable generally to the social services program, including the purchase of services from other agencies. Pursuant to these regulations and the antecedent statutory changes, states submitted amendments to their plans for social services that contemplated substantial expansion in purchase of services from public as well as private agencies. These plans were generally approved by HEW and pursuant to them states began submitting significantly higher claims for social services funds. These developments, and the likelihood of even greater claims for federal funds under the then openended program, led to the enactment by Congress in 1972 of the \$2.5 billion annual limitation on social services matching funds.

At the same time, HEW began giving special attention to social services claims, particularly those submitted pursuant to the amended plans. A number of issues arose as to the validity of these claims, focusing principally on the methods used by the states to identify eligible expenditures. Late in 1972 HEW distributed a set of guidelines to be used to test the validity of these claims. Many states strongly objected to those guidelines, feeling that they amounted to retroactive changes in the conditions for federal reimbursement, and a number of states filed suit challenging the validity of the guidelines. In 1976 a federal district court invalidated the guidelines. An appeal from that decision is currently pending.

Meanwhile, HEW had disallowed most of the disputed claims, both paid and unpaid. Several states instituted court action challenging HEW's disallowance of their claims. Others protested the disallowances in administrative review proceedings that would likely eventuate in court litigation. In all, a tremendous amount of time and energy of both federal and state officials has been consumed.



in the processing and litigation of these disputes, and absent a settlement several years of additional litigation are certain.

The existence of the social services claims disputes has proved to be a particularly abrasive impediment to federal-state cooperation in the public assistance programs, and if not resolved the continuing litigation would undoubtedly continue to impair good federal-state relations. Moreover, the contingent liability of the states to repay large sums of money to the federal government as claimed by HEW, together with the uncertainty about when or if states would receive claimed funds that had been withheld, have seriously inhibited the ability of many states to budget and plan programs on a rational basis.

For these reasons, the states welcomed the initiative of the incoming Administration to seek a compromise settlement of these outstanding disputes. The settlement was developed over a period of several months of discussions between state representatives and HEW officials. Ultimately, all of the affected states agreed to the final settlement terms, even though the payments fall well short of the total unpaid claims, in the belief that it was important to end the controversy and that, under all the circumstances, the terms were fair and reasonable.

The key elements of the settlement are: (1) payment to the states in accordance with a negotiated formula of a portion of their pending unpaid claims; (2) forbearance by the states from submitting any further claims for social services reimbursement for the pre-Title XX period (other than claims that might be submitted against a contingency fund of approximately \$12 million); (3) withdrawal by HEW of any efforts to recover payments previously made to the states for social services whether or not that recovery effort had proceeded to the point of formal disallowance action. The settlement is subject to the approval of the Congress.

The settlement achieves the dominant objective of closing the books completely on the social services program in the pre-Title XX period, and thus terminates an unusually rancorous series of controversies. Agreements on the precise figures involved have now been reached between HEW and virtually all of the states that will be receiving payments under the formula established in the settlement. These agreements, which are supported by documentation in the possession of the states as well as the voluminous record already accumulated by HEW, specify the precise amount of the payment to be made to each state. With these agreements it will be possible to implement the settlement as soon as appropriate legislation is enacted.

We have been gratified that the Senate Finance Committee has reported legislation authorizing the settlement with the recommendation that it be passed by the Senate. The Public Assistance Subcommittee of the House Ways and Means Committee has likewise voted approval of the legislation. The states respectfully request that this Subcommittee approve the legislation, which they believe to represent a sound and fair resolution of a most difficult and unique problem.

Thank you very much for your attention. I will be pleased to answer any questions the Committee may have concerning this subject.

Mr. DANIELSON. Now, proceed in any manner you like.

Mr. MILLER. Well, Mr. Chairman, if it would be all right with you, I thought the best thing I could do this morning, perhaps might be to try to answer some of the points that have come up in this discussion, since I'm sure you can read the statement.

Mr. DANIELSON. Surely, I have read the summary, and go right ahead.

Mr. MILLER. Let me speak first to the point you have raised and that is what the impact of this settlement is on the 22 or so States that don't have any payments to be received or any amounts in dispute. The background of this is that—and first, maybe, I think I'll begin by answering the last question you asked of Mr. Eidenberg, which is that normally States submit claims for services quarterly. At the end of each quarter, they go back and check their books, pick up the expenditures made in that quarter and submit it on a form to HEW, usually within 45 days of the end of the quarter.

Mr. DANIELSON. If I may interrupt, the second quarter's expenditures will have been billed along about August 15?



Mr. MILLER. That's exactly right. Now, from time to time, because these are vast operations and you can't always pick up every expense currently, States are required to submit claims for the past period expenditures. The bulk of any past period expenditures will be picked up in the next quarter. Once in a while you have an item that missed two quarters and you have to pick it as much as 9 months later, but that would be pretty much the outside limit.

Mr. DANIELSON. Let me interrupt again. You say if something was missed in the first billing, it might be picked up in the next quarter. Would that be deferred until the billing for the following quarter or can they make an interim billing?

Mr. MILLER. Well, if the amount is large enough, the State can make a request for interim payment, and they can be honored if there's a cash flow problem in the State. Ordinarily you'd wait to the next quarter because ordinarily the amount wouldn't be that large.

Mr. DANIELSON. So that the skipped-over payment of the previous quarter would be identified, but lumped into the billing for the succeeding quarter?

Mr. MILLER. Ordinarily, that's right. There is a special form which has a line for past quarter adjustments and those are what would be included. Now, in the case of these claims which covered the period up to September 30, 1975, the issue that they address has been rather notorious around the States. In the several years that we have assisted the States on these matters, we've attended a number of meetings of the welfare officials who are responsible for these programs and this matter has been discussed from time to time, and I can recall on several occasions when States have been urged, now get your claims in, because some day this matter is going to be litigated or going to be resolved one way or another and you want to be there when that occurs, so I give you that by way of a little further background. Then, of course, when the *Florida v. Matthews* litigation was decided in July 1976, it was decided by the lower court favorable to the States. We had thought that any State that might be holding back, possibly thinking that it would wait to see how these law suits were going to be decided before filing any leftover claims, we thought that the decision in that court would smoke out any claims that hadn't yet been filed. As far as I know, none did come forward at that time. That allowed us to—helped us to conclude, during the settlement discussions, that we had pretty much identified all of the claims that States would be making for the pre-October 1975 period. These discussions all took place beginning around April 1977 and concluded in October 1977, with the agreement that's represented in the bill before you. By that time, we are now 2 years past the period we're dealing with, so it seemed at the time that we were probably covering everything.

Nevertheless, when the HEW proposal was made to the group of States by Undersecretary Champion, the States took it back for consideration and they convened in a meeting held in Washington some weeks later, at which all but three or four States were represented, and it was at that meeting that the States agreed on the alternate proposal which was made to HEW. At that meeting, again, it was asked are there any claims left that we don't know about and no one mentioned anything he knew of. Nevertheless, we still included the counter-proposal, which was adopted by HEW as the basis for settlement, this contingency arrangement. We thought there might be some claims



that had been overlooked, conceivably, or some possible claims a State had withheld from submission because of incorrect advice by a regional—any number of possible reasons might allow for some claim that hadn't been identified. It seemed that, to the States convened, that \$10 or \$11 million was more than ample to cover that. If every State that was eligible to submit a claim under the contingency did so and each of those claims qualified, the total amount of claims would exceed the \$10 to \$11 million, but I think that's a highly theoretical possibility and taking up your view, Mr. Chairman, of pragmatism here, we think more likely it is a fact that the \$10 or \$11 million will not be expended on these contingency claims. In fact, it's our expectation that a portion of that fund will be utilized in accordance with a second alternate formula, which disposes of the balance of the contingency funds that do not go to the States that have contingency possibilities, so based on all those considerations, it seems to us unlikely that the problem that you've identified will be one in practicality.

There's one more point I should like to make on this score also. Each of the 22 States, as have all the States, have received social services funds from HEW. Each of them has at least a potential dispute in that HEW could audit their returns for the pre-October 1975, and could decide that some claims had been erroneously made or at least assert that.

Mr. DANIELSON. May I interrupt you there. Is there a period of limitations on that type of claim?

Mr. MILLER. No; there is no period of limitations in the law at present, either way. There's no limitation on when the State submits claims.

Mr. DANIELSON. Well, assuming this bill became law, regardless of the legality of the settlement based on some kind of consideration, we would certainly at least be stopped from going back and auditing the claims of any of the States who are a party.

Mr. MILLER. Well, I think that's right, yes.

Mr. DANIELSON. But what is your curbstone opinion? Would the Government be stopped from going back and auditing the claims of any of the 22 States?

Mr. MILLER. Well, I'll say this, Mr. Chairman, I think it's more than a curbstone opinion. I've thought about it quite a bit. We're fairly confident—

Mr. DANIELSON. You say it was thought about?

Mr. MILLER. Yes, indeed. I say we thought about it because a number of the States were absolutely insistent on this point, that they didn't want to make a one-way settlement.

Mr. DANIELSON. No, I'm talking about the 22 States that are not receiving something.

Mr. MILLER. I'm talking about them too, because they were party to this also. You see, they would be giving up, under the bill, their right to submit additional claims for the future, if they had any.

Mr. DANIELSON. Maybe you're touching on something we didn't get before. There is, I assume, a settlement agreement of some kind?

Mr. MILLER. There are two things, let me say. We have an oral agreement with HEW, which was made on behalf of all the States, because every State present at the meeting I described in Washington endorsed that proposal.



Mr. DANIELSON. You say that was all but a very few States?

Mr. MILLER. All but three or four. I just think Alaska and Hawaii didn't come to the meeting and maybe two or three other States weren't present. I think efforts have been made to contact them by telephone. But every State present——

Mr. DANIELSON. Now, that's an oral agreement?

Mr. MILLER. That was the agreement to present to HEW and settle the whole dispute. Even the 22 States had an interest in that. Their interest was that amounts they had received, which were potentially subject to being challenged, would no longer be subject to challenge.

Mr. DANIELSON. What you're talking about is an oral agreement?

Mr. MILLER. Yes.

Mr. DANIELSON. You said three things.

Mr. MILLER. Two things. The other thing was a series of written agreements which were entered into between the States that will be receiving money from HEW embodying the same settlement.

Mr. DANIELSON. How about the forbearance States or maybe there aren't any of them——

Mr. MILLER. There are some States that have forbearance, but no new moneys. No written agreement was made with those States because it was felt that the legislation alone was sufficient for that purpose.

Mr. DANIELSON. Is it your considered opinion that this bill, if passed, if law, would bar the forbearance States from making any further demand based upon the claims prior to October 1, 1975?

Mr. MILLER. Yes, except for the contingency, except for the right to try for the contingency fund, which is a limited fund.

Mr. DANIELSON. Well, that's a cap of \$12 million overall.

Mr. MILLER. Right. That's the only exception.

Mr. DANIELSON. Now, these written agreements, what is the form of them?

Mr. MILLER. Well, they're a three-page agreement that follows pretty closely the legislation that you have before you.

Mr. DANIELSON. They're executed on behalf of the United States by whom?

Mr. MILLER. By the Under Secretary, Mr. Champion.

Mr. DANIELSON. Do you feel he has the legal power to execute that type of agreement? At least do you have equitable dissents?

Mr. MILLER. Well, we believe he has the power to execute the agreement if this legislation is passed.

Mr. DANIELSON. If we ratify him?

Mr. MILLER. Exactly.

Mr. DANIELSON. Which I think we'd probably do. Who executed on behalf of the States?

Mr. MILLER. In almost every case the Governor of the State signed the agreement. Some of the States, in one or two States a State welfare board has the constitutional authority in that State to settle that matter and in that case, a member of the board signed.

Mr. DANIELSON. Well, 3 pages time 27 States is something like—I'm not very good at arithmetic; 81 pages, more or less. I'd like to have a copy of those agreements.

Mr. MILLER. That's very simply done, Mr. Chairman.



Mr. DANIELSON. Could you have them sent up some way or another?

Mr. MILLER. I'll have them to you tomorrow.

Mr. DANIELSON. I did interrupt you there, but I think it was useful. Continue, if you will, please.

Mr. MILLER. Well, just to finish this point, the only thing—I think I almost made the point. Even the 22 States have a substantial interest in the settlement and, therefore, that's why they endorsed it and while I don't know that you could take them to court and sue them based on their raising their hands in a meeting, what I am suggesting, as a practical matter, those States have gone along with this agreement because they believe it's in the best interest of their State as well as their interest altogether. Their interest is the money they have now is protected against the possibility of a subsequent audit or other claim that they have to give it back, so even though they have no new money coming and no pending dispute—

Mr. DANIELSON. But nobody is going to check their books any further.

Mr. MILLER. That's right.

Mr. DANIELSON. That may be a relief for everybody.

Mr. MAZZOLI. Mr. Chairman, would the gentleman yield for just one question on this topic?

I'm not that much knowledgeable in the law, but would there be any class action suits on behalf of plaintiffs against these 22 States who were not served or served ineffectively because the States did or didn't do something stemming from these various contested activities here?

Mr. MILLER. I don't quite see how, Mr. Mazzoli. These States could only provide services that are contained within their States' plans approved by HEW and we're talking about a period up to October 1975. Now, if anybody believes that the State is not doing all the things it could be doing and should be doing more, they may be able to bring a suit, but I don't see how they could get anything except relief for the future.

Mr. MAZZOLI. I want to be sure if something like this passes, that we're extinguishing not just to the States, but anybody else you might have as a beneficiary or somehow related to the State, that we're extinguishing their claims as well.

Mr. MILLER. Let me say from the States' point of view, probably the most important consideration in these negotiations was that the settlement be a total and absolutely final disposition of the matter. In fact, when the HEW proposal was made, the biggest concern the States had about it was it didn't have provisions that made it absolutely final and we suggested those provisions. From the States' point of view, a settlement was in their interest only if it can be a total settlement, so we feel pretty confident that we achieved that.

I made some notes of questions you gentlemen had. I'll just sort of go down the list.

Mr. DANIELSON. Go right ahead.

Mr. MILLER. This goes to what you said, it largely goes to a question you asked about the State of California and its status in connection with these agreements, and also Mr. Moorhead's question. California has been fortunate in not having as many disputes with HEW as many of the other States had. One of the reasons is that California had amended its plan rather earlier than most of the other



States. A number of these disputes arose in the context of the State plan amendments, but some of the States that amended early got in there under the wire and California has been, in every year, the largest recipient of funds under this program and has been the one State since the cap went into effect which has received all or virtually all it could receive under the limitation of \$2.5 billion.

Mr. DANIELSON. Even more than New York?

Mr. MILLER. Yes, it did, every year. But it hasn't been questioned to the point of formal action yet. In other words, as Mr. Eidenberg pointed out, there is \$130 million of dispute that are in the pipeline, but California has quite an enormous benefit in this agreement in the same sense as these other States, in that all the amounts that could be questioned will now not be subject to questioning, so it will be protected. Mr. Moorhead asked me a question about three States that had been a party to the *Florida v. Matthews* action, whether the settlement would be binding on them since they have not signed the agreement with HEW. One of those States he mentioned, South Carolina, is not a party to that lawsuit. The other States are Missouri and Virginia. They were parties to the suit. They have not entered into signed agreements with HEW because they don't receive any new dollars. However, they are agreeable to the settlement and will be agreeable and will join in any motion to dismiss the lawsuit which we will file if and when the Congress approves the settlement.

Mr. DANIELSON. How do you plan to handle that? You say that you will file a law suit.

Mr. MILLER. There would be a dismissal. I meant to say a dismissal.

Mr. DANIELSON. Now, that would be 3 or 4 of 22 States.

Mr. MILLER. Well, there are 13 States in that suit. I would say that was sort of the leading case, at this point, in that it involved the most States and goes to the major issues underlying many of these disputes.

Mr. DANIELSON. But Virginia, which is not one of these States here to receive money, nor to have a forbearance, as I recall it, they are a party to that lawsuit and it's understood that they will join in dismissal on this?

Mr. MILLER. Yes. We are counsel for them in that suit. Somebody asked why would they be in this suit and their interest was, as I described before, because they had received funds and they were concerned that the same kinds of allegations made against other States might later be made against them and they decided to join the suit for that reason.

Mr. DANIELSON. Apropos of that, forgetting Virginia and South Carolina right now, are there any of the 22 States which did not receive any funds? I don't see how it's possible.

Mr. MILLER. No. Every State in the Union had a program under the social services title XX and every State did receive funds.

Mr. DANIELSON. Then I would wonder why only 28 States are listed in this table because—or is it just that HEW never got around to auditing them?

Mr. MILLER. I don't think HEW audits every claim of every program. They couldn't possibly. So it's a lax—

Mr. DANIELSON. Do you know whether that's the reason?

Mr. MILLER. I think that's the main reason. I would think in most cases you would find also that most of the 28 States tend to be our smaller States, that, I believe, in most cases are States with smaller



services programs and so their claims are probably not as large, even in proportion to their size, as the others. My guess is HEW, which has limited auditing resources, probably selects those States with the largest amount of dollars. That's speculation on my part, but I think that explains it.

Mr. Kindness asked some questions about the equity of the settlement and the luck of the draw, basically, and the fact that some States would be getting 100 percent of the claims in settlement whereas others would be getting a smaller percentage. All I can say is, Mr. Kindness, we thought your suggestion was a fine one, that everybody get 100 percent. Unfortunately, HEW wasn't making that offer. They didn't feel that they had sufficient funds or could expect the Congress to appropriate sufficient funds for that purpose.

Mr. KINDNESS. I'm a liberal. I believe in that sort of thing.

Mr. MILLER. I felt that in this case it would be best to maintain a neutral posture on these matters. But we think that the best liberal and conservative position would be to pay these States what they have coming.

Mr. DANIELSON. It would probably depend on the direction you're looking in at the time.

Mr. MILLER. In any event, the States that would be receiving less than 100 percent of their total claims obviously considered this very carefully and much of the adjustment in the formula from the original HEW proposal to the final solution was a reflection of the States' discussion as to what was the most equity they could get in this situation. And all those who are getting less than 100 percent have agreed to the settlement and each of them has a written agreement with HEW, so that's the best evidence I can point to that rough justice was achieved. I think everybody realized that he gave up something, but everybody also realized that the only way he could have received more was for somebody else to receive less and if that ever occurred, the other person wouldn't have accepted the settlement and we wouldn't have had a settlement. Well, I think those are the principal questions. I think we have a list, Mr. Chairman, of the claims broken down pre- and post-June 1975. You had asked GAO for that, but actually, HEW prepared such a list and will be glad to meet with Mr. Eidenberg. There are a few minor adjustments to be made in the list and we can supply that to you, so you'll get that this week as well. Concerning the title XX claims that are post-October 1975, I would just like to say this. The claims are the same kinds of claims, that is, claims for Federal funds for services provided, but the legal issues in these cases are bound to be considerably different than the ones involving the claims before us today, because the law was substantially changed in substance in title XX. Title XX was more than just a recodification. It changed a lot of substantive rules and it was designed to deal with a lot of issues that underlay the claims before us here, so the title XX claims that strike me as rather normal in amount for a program of this size, are a substantially different kettle of fish for that reason and our effort here is not to deal with any current programs, but simply to deal with this one discrete, old, difficult, very complex and nagging problem.

Mr. KINDNESS. Mr. Chairman, if I might, in connection with that point, direct a question to Mr. Miller.



On page 4 of the bill, lines 21 through 25, it states that neither the Secretary nor any other official of the Federal Government may seek to recover any amount paid to a State prior to April 1, 1977, which was, I guess, the beginning date of the negotiations, or pursuant to this act with respect to a claim of the State described by paragraph 1. Isn't it possible that that language includes the claims arising after October 1, 1975, if such claims have been paid?

Mr. MILLER. I don't think so, Mr. Kindness, because I think the definition of the claims covered this bill in the opening paragraph limits them to claims arising prior to October 1, 1975.

Mr. DANIELSON. The bottom of page 1 and the top of page 2.

Mr. MILLER. Yes, sir. In any event, it only applies to claims under certain titles of the statute, and title XX is not one of those listed, so for both of those reasons, the bill just wouldn't cover anything under title XX. It's in the opening paragraph of the legislation at the end of the first paragraph.

Mr. DANIELSON. This bill doesn't have section numbers. It's about line 10 on page 1 and line on page 2 that sort of describes it.

Mr. KINDNESS. But it is conceivable there could have been a claim submitted prior to October 1, 1975, and paid between then and April 1, 1977, but that's not a very big deal, I guess.

Mr. MILLER. Well, if it was submitted prior to October 1, 1975, under one of these titles listed in the bill, then it would be covered by the bill.

Mr. KINDNESS. But there probably couldn't be any claim submitted prior to October 1, 1975, and paid between then and April 1, 1977, because this controversy was in existence.

Mr. MILLER. That's correct. There may have been some minor payments just through mathematical adjustments, but I don't think any significant payments have been made because people have been waiting for the lawsuit.

Mr. KINDNESS. Theoretically, it wouldn't make any difference if the date of April 1, 1977, on line 23 of page 4 of the bill was changed to an earlier date or later date, such as the effective date of the act.

Mr. MILLER. We didn't want people to come in on the eve of a settlement and drop some new claims in the hopper so they could get 38 percent or something like that. We picked a date of approximately when the negotiations began. In fact, I'm not aware of any claims that were filed between April 1 and around September or October. After the settlement was announced, I believe one or two States made modest claims against the contingency fund or said they would, said they found new claims and wanted to submit them. They were aware of the settlement and were going to submit claims against the contingency fund. I think the April 1 date is a clean date, in that sense, and I think that's the only justification. It's a clean-cutting point that everybody understands.

Mr. DANIELSON. When you say two States have submitted modest claims, how big is modest?

Mr. MILLER. I'm aware of two claims. I'm not even sure. The first one was a Pennsylvania claim which would result in something less than \$5 million in payments, and an Oregon claim—I'm not sure this claim was made or they said they're thinking of making it, for a claim of not more than about \$3 million.



Mr. DANIELSON. Well, you have \$5 million and \$3 million in these two modest claims, and we've only got a contingency fund of \$12 million.

Mr. MILLER. You only get 15 percent.

Mr. DANIELSON. Now, let me ask you this. These would have to be for the period—incurred for the period before October 1, 1975, so you're talking about some claims that were 2 years old.

Mr. MILLER. Well, I think, in fact, these claims are about 6 years old. I think they all date back to 1972. I'm not sure. I've never seen them. I don't know that HEW analyzed them. I don't know that they even qualified them.

Mr. DANIELSON. We were talking about that they would be filed quarterly, even up to as late as 9 months later, but here you're talking about something several years old.

Mr. MILLER. That's correct. And I'm not sure whether these claims will meet the qualifications. I think some States, for example, these States may have decided there are some things that we wished we had qualified for Federal funding for in 1972 and let's put it in and see if we can get something.

Mr. DANIELSON. I'm sorry to hold you up. Go ahead.

Mr. MILLER. I don't know that I have anything else, Mr. Chairman. I think I've covered most of the points that were asked.

Mr. DANIELSON. Well, I think my asking questions as we've gone along, it may have been helpful. I've got one question. You say you are representing the States. Normally, or often, anyway, an attorney is able to bind his clients. You're here as the attorney representing the States. Are you retained by the individual States, or are you retained by some association of State governments, or who do you represent?

Mr. MILLER. Let me state that precisely, because I tried to—

Mr. MAZZOLI. That's the one question I did ask before that you didn't address. I was going to ask the question myself about the fees and representation.

Mr. MILLER. We represent various of the States involved here, approximately 15 of them in various litigation. We do not today—I do not speak today as counsel for all the States. As I indicated in my statement, we acted as a liaison for the States at their request in connection with the negotiation of the settlement and the implementation of it, so I can speak for the States we represent—

Mr. DANIELSON. Which is 15?

Mr. MILLER. Approximately 15; 14 or 15. And I can give you my best views as to what the other States think about this based on discussions.

Mr. DANIELSON. I appreciate that. I think it's our responsibility to know who is truly represented here.

Mr. MILLER. I want to make that clear.

Mr. DANIELSON. Who are your clients? Would you rather submit them?

Mr. MILLER. I'll be glad to submit the list for the record.

Mr. DANIELSON. Would you please? And without objection it will be received in the record.

And I understand as to the other, based upon your experience and practice and probable prior representation, you feel that you are least in harmony with their point of view on this matter. Is that proper?



Mr. MILLER. Well, I really base it on the meetings we had with them, as I've tried to describe with you, and the positions that they voted upon and then ask the three-man committee, with myself as the liaison, to express to HEW on their behalf.

Mr. DANIELSON. Was there a meeting in which minutes were kept? Did you have a court reporter there?

Mr. MILLER. No, no. It was an open meeting. I don't recall that minutes were kept. I made some notes of what happened there. I'm sure others did too. It was not a formal meeting in that sense.

Mr. DANIELSON. Was there a meeting with authorized representatives of HEW at which you or your clients or other States appeared in which there was a record kept of the proceeding?

Mr. MILLER. I know of no meeting in which a record was kept, unless a record was kept of the initial meeting which Mr. Champion had to make his initial proposal, but I'm not sure of that.

Mr. DANIELSON. I think you're aware that one thing that concerns me a little bit, the same thing that was voiced here before. I don't cast any doubt about what you're saying or the other witnesses, but I think we have a responsibility to at least feel sure that if we do pass this legislation, we have done something and I would hope that if this became law—and I'd like your opinion on this—if this became law, do you feel that as a practical matter we created a statute of limitations which bars any new claims for the period before October 1, 1975?

Mr. MILLER. Well, I have no trouble answering that question, Mr. Chairman. You clearly have created a statute of limitations. The bill is very express. It seems to me the only issue is whether it's constitutional. You write the laws.

Mr. DANIELSON. Well, that bothers me.

Mr. MILLER. Well, I agree with you. Congress writes the laws. If the Congress says the statute of limitation is 90 days from the date of the bill, which is what this bill says, then that's the statute of limitations. I don't think anybody can claim it otherwise unless there is some constitutional objection. I don't know of any.

Mr. DANIELSON. I think a lapse of time will do as—

Mr. MILLER. In this case, I don't think anybody could claim any invasion of substantial rights.

Mr. DANIELSON. Is there any priority contemplated in making payments to those who will receive money under the bill?

Mr. MILLER. No, sir. The total agreements, which I will supply to you, you will see that they will total up to approximately \$531 million in payments to the States. Since the amount requested for appropriation is \$543 million, the full amount should be available for payment as soon as the funds are appropriated.

Mr. DANIELSON. I have no further questions.

Mr. MAZZOLI. I have a couple of questions, and I hope I'm not stepping on your toes, sir, but is your fee with these 15 States you represent and the others, I assume, you don't directly represent, but who you believe have sort of become amenable to this bill, is your fee a contingency fee?

Mr. MILLER. No, sir, it is not.

Mr. MAZZOLI. It's a fee based on the work you've done? Is it an hourly fee? Is that a fair question to ask you?



Mr. MILLER. It's a fair question and—I don't know if it's fair or unfair, but I'll answer it anyway. Our fees, we charge for the legal work we do on an hourly basis.

Mr. MAZZOLI. Now, do you charge every State for that same hour?

Mr. MILLER. No, sir, we do not. We allocate the fees among the States participating in any particular matter.

Mr. MAZZOLI. You allocate to any particular States involved and you—

Mr. MILLER. We did. We allocated on the basis of their relative participation under the allotment program of the \$2.5 billion. That was the ratio we used.

Mr. MAZZOLI. Again, your fee per hour based on this would be as if you were representing one State or is it a larger fee per hour because you're representing say 15 States?

Mr. MILLER. If you want an honest answer, it's slightly less than our average hourly rate because we charge somewhat less to our State clients than we do for others.

Mr. MAZZOLI. You are doing, what would seem to me in my unskilled way, what would be done by the attorney generals of several States. How come you're doing that and how come they're not?

Mr. MILLER. I think the best answer is this. I think, first of all, a number of States had the same general problem with HEW. The disputes had a number of common issues and those issues required quite an extensive amount of work to resolve, years of history to be resolved, and a lot of research to be done. I think the States' view was that by joining together and hiring one law firm to do the work for them, they could, in the end, get the work done more cheaply than if each State individually handled the case with its own attorney general and I think they may have also taken into account the fact that because we practice in this area, we had a certain knowledge and background in it that would have taken the attorney general more time to become familiar with it, and I think they also felt if they were joined together, one firm would have the ability, because of the fact that the States were together financing the suit, to go into more depth and do the job more, let's say, more fully than any particular attorney general could do, given the other demands on the attorney general's office.

Mr. MAZZOLI. And get more money for it?

Mr. MILLER. Of course, that would be the hope.

Mr. MAZZOLI. Which leads me to the next thing. This is not the bottom dollar and because taxpayers are paying it, this is not as if it were two private parties, and because you're representing the States in a sense as a surrogate or in lieu of the State's attorney general, part of your representation is because of the skill that you personally have and the resources of your firm and the idea that you could marshal the assets and resources and probably obtain more in these disputed areas, more money, so my question is: What and who in all of these meetings, represented the taxpayer?

Mr. MILLER. Well, I can say this to you. It seems to me that the State officials that I dealt with in my meetings with the States were intensely interested and concerned about the impact of anything they did in this area on not only Federal taxpayers, but also the citizens of their States, both taxpayers and recipients of these services. I thought that was uppermost in their minds. And I must say, though you didn't



quite ask me this, in our meeting with HEW, under the Assistant Secretary and others, they seemed to show to us a very deep concern for the impact of the settlement on the taxpayers, this settlement of the taxpayer, this settlement of the paid claims.

Mr. MAZZOLI. Excuse me, sir, if I could interrupt. If I'm not mistaken, at least the GAO people seem to indicate that this was a figure that we arrived at first and worked our way backwards rather than from some data and worked forward to the figure of \$543 million, so assuming there might have been a harder nose than Mr. Champion, we might have started off at \$450 or \$375 million, and then it would have been at that point, so we're really not dealing with any formula that yielded this figure directly, so accordingly, in that sense of the word, I wonder if HEW really had primacy in mind of the taxpayer, since we're dealing with quite a large sum of money.

Mr. MILLER. I can only answer you from our point of view, which is across the table from them. The States' unpaid claims are about \$1.6 billion, as you know. We had some preliminary discussions that were not at all specific in dollar terms. When the HEW decided to make a proposal to the States, they told us that they concluded that the amount they could pay was \$543 million. They didn't tell us how they arrived at the figure, except to suggest they had made an analysis and evaluation of what they thought their worth was, how much the Treasury could afford to pay, and I suppose any other consideration that was pertinent. They told us it would be a waste of our time to try to talk them up from that figure. We didn't know whether that was just an opening negotiating position or if they were serious about it. They acted very serious about it and one of the first things the States had to do in our discussions among ourselves was to determine whether they were serious about that or whether we could bargain them upward.

We finally concluded, talked some more to Mr. Champion, Mr. Eidenberg and others, and we became convinced that they meant what they said and for that reason, we proposed an alternate formula that did not raise the total amount. That was one of the toughest issues the States had to deal with, because the States felt that this settlement, which was basically about one-third of the total outstanding unpaid claims, was not as much as they should receive and not as much as their claims were worth, particularly in light of the decision of the court in the *Florida v. Matthews* case. We felt that, as you suggested before, Mr. Mazzoli, that HEW was awaiting some indication from the courts before coming forward with a settlement. We felt we had got that indication from the courts and our case was probably worth more than the one-third. If that's all that was into it, we probably would have said that's not enough. In the discussions among the States, however, other considerations predominated. No. 1, the fact of the matter is this dispute has been a most difficult irritant to the States, as well as to the Federal-State relations, and the other main thing—I'll just cut this short.

Mr. DANIELSON. We have 2 more minutes.

Mr. MILLER. I won't take that long.

These States had clouds on their money which prevented them from spending it. They had desperate needs that they had to fulfill at home and the \$543 million was just too much to turn down and it was a bird in the hand. Those were the considerations that caused the States to accept it.



Mr. MAZZOLI. Well, thank you, sir, very much. You're a very persuasive and eloquent man. I can see why you'd be with your firm. I just have some concerns about whether the taxpayers were represented.

Mr. DANIELSON. I have a question here from counsel. Have you agreed with HEW upon a settlement procedure to dispose of the claims or will it be first come, first served?

Mr. MILLER. On the claims of the States?

Mr. DANIELSON. The moneys to be paid out.

Mr. MILLER. We have agreements from every State. I think all but one is yet to be signed. The agreements are already made.

The figures are identified. The exact amounts are specified. If the bill is passed, payments will be made.

Mr. DANIELSON. Well, OK. Gentlemen, I have no questions. We don't have the time, anyway, but I think we've covered it reasonably well. We are expecting information from HEW, from GAO and from Mr. Miller, and we will very shortly adjourn and then I'll notify the committee when we have the data. I'd like to move this through and act on the bill as quickly as possible.

Without anything further, we will adjourn subject to the call of the Chair.

[Whereupon, at 3:07 p.m., the hearing was adjourned.]



## APPENDIX

COVINGTON & BURLING,  
Washington, D.C., March 9, 1978.

Hon. GEORGE DANIELSON,  
Chairman, Subcommittee on Administrative Law and Government Relations, House  
Judiciary Committee, Cannon House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: During the hearings yesterday on H.R. 10101, you asked me to supply to the Committee a list of the states for whom we had acted as legal counsel in connection with the social services disputes that are the subject of the legislation. We are acting as counsel to the following states, either in connection with their individual disallowance proceedings before HEW or in the joint state litigation in the federal court: Alabama, Connecticut, Florida, Idaho, Illinois, Louisiana, Massachusetts, Michigan, Mississippi, New Jersey, New York, Oklahoma, Oregon, Rhode Island, Virginia, and Wisconsin.

Other requests for information made during the hearings are being responded to by HEW, with whom we have coordinated to ensure that all of the requests made of me by the Committee have been answered.

Sincerely,

CHARLES A. MILLER.

### PROPOSED SETTLEMENTS BY STATE

[In millions]

| State              | Claimed<br>payment due<br>from HEW<br>(1969-75) | Proposed<br>payment | U.S. claims<br>against States<br>dropped |
|--------------------|-------------------------------------------------|---------------------|------------------------------------------|
| Alabama.....       |                                                 |                     | \$1.0                                    |
| Alaska.....        |                                                 |                     | .7                                       |
| Arizona.....       |                                                 |                     | 5.2                                      |
| Arkansas.....      | \$3.8                                           | \$2.2               |                                          |
| California.....    |                                                 |                     | 1.5                                      |
| Connecticut.....   | 38                                              | 22                  | 6.0                                      |
| Florida.....       | 28.7                                            | 11                  | 29.1                                     |
| Georgia.....       | .7                                              | .3                  | 6.0                                      |
| Idaho.....         | 1.1                                             | .6                  |                                          |
| Illinois.....      | 87.3                                            | 32.1                | 188.4                                    |
| Kentucky.....      |                                                 |                     | 2.4                                      |
| Louisiana.....     |                                                 |                     | 16.7                                     |
| Maine.....         | 2.2                                             | 1.3                 |                                          |
| Maryland.....      | 24.7                                            | 14.3                |                                          |
| Massachusetts..... | 142                                             | 75                  |                                          |
| Michigan.....      | 57.1                                            | 32.6                | 8.4                                      |
| Minnesota.....     | 49.4                                            | 28.6                | 4.0                                      |
| Missouri.....      |                                                 |                     | .2                                       |
| New Jersey.....    | 1.3                                             | .7                  |                                          |
| New York.....      | 914                                             | 214.4               | 490.0                                    |
| Ohio.....          | 15.1                                            | 5.7                 | 5.0                                      |
| Oklahoma.....      |                                                 |                     | 13.8                                     |
| Pennsylvania.....  | 4.2                                             | 1.6                 | 2.8                                      |
| Rhode Island.....  |                                                 |                     | 1.2                                      |
| Tennessee.....     | .004                                            | .0015               | .5                                       |
| Texas.....         | 92.7                                            | 34                  | 34.7                                     |
| Washington.....    | 32.8                                            | 19                  | 5.6                                      |
| Wisconsin.....     | 65                                              | 36.5                | 6.3                                      |
| Total.....         | 1,560                                           | 532                 | 830.0                                    |



## CERTIFICATION

I, W. Douglas Skelton, M.D., Commissioner of the Department of Human Resources, State of Georgia, hereby certify that the social services claims of the State of Georgia that are the subject of a settlement agreement with the United States Department of Health, Education, and Welfare are comprised of the following expenditures:

## Unpaid social service claims:

|                                                                                        |                 |
|----------------------------------------------------------------------------------------|-----------------|
| Atlanta Public School Systems (prior to June 30, 1974)-----                            | \$75, 660       |
| Atlanta Employment Evaluation and Service Center (prior to<br>June 30, 1974)-----      | 156, 818        |
| Cheerhaven Schools, Inc. (prior to June 30, 1974)-----                                 | 35, 596         |
| Cerebral Palsy Center of Atlanta (prior to June 30, 1974)-----                         | 21, 393         |
| Georgia Department of Offender Rehabilitation (prior to June<br>30, 1974)-----         | 229, 548        |
| <b>Total Federal funds (prior to June 30, 1974)-----</b>                               | <b>519, 015</b> |
| Renewal House, Inc. (see SRS-DF-27, second quarter 1976 grant<br>award)-----           | 65, 200         |
| Forsyth County Day Care Center (see SRS-DF-27, third quarter<br>1976 grant award)----- | 18, 987         |
| Renewal House, Inc. (see SRS-DF-27, third quarter 1976 grant<br>award)-----            | 52, 500         |
| <b>Total-----</b>                                                                      | <b>655, 702</b> |

## Paid social service claims:

|                                                    |             |
|----------------------------------------------------|-------------|
| Atlanta School Board-----                          | 3, 064, 810 |
| Atlanta Housing Authority-----                     | 319, 860    |
| Atlanta Model Cities-----                          | 90, 853     |
| Georgia Department of Offender Rehabilitation----- | 608, 249    |
| Gate City Day Care Association-----                | 182, 789    |
| DHR Division of Mental Health-----                 | 897, 718    |
| DHR Division of Vocational Rehabilitation-----     | 907, 746    |

**Total (July 1, 1972 to Mar. 31, 1974)----- 6, 072, 025**

To the best of my knowledge and belief, each of these expenditures is evidenced by appropriate accounting of fiscal records of the State of Georgia and represents expenditures actually incurred. Supporting documentation showing the method for calculating the amount of the claims is available in the possession of the State.

W. DOUGLAS SKELTON, M.D.

*Commissioner, Georgia Department of Human Resources.*

## AGREEMENT

The Department of Health, Education, and Welfare ("Department") and the State of Georgia ("State") agree as follows:

(1) This agreement covers claims of the State against the United States for reimbursement of expenditures made by the State prior to October 1, 1975, with respect to services (and related administrative costs) asserted by the State to have been provided (or incurred) under a state plan pursuant to Title I, IV, VI, X, XIV, or XVI of the Social Security Act (referred to in this agreement as "social services claims").

(2) There are presently pending unpaid "social services claims" of the State in the total amount of \$655,702.00 which have been deferred or disallowed or are otherwise unpaid as of the date of this agreement (these are referred to in this agreement as "unpaid claims"). In addition, the State has received and presently holds \$6,072,025.00 in Federal funds representing "social services claims," the payment of which has been questioned by the Department and as to which formal steps have been initiated to recover the funds (these are referred to in this agreement as "paid claims").

(3) In order to conclude all disputes relating to the "social services claims," the Department and the State agree as follows:

(a) All pending administrative proceedings with respect to "paid claims" will be terminated. No new proceedings will be initiated with respect to "social services claims" and no further effort will be undertaken to recover any amount



paid prior to April 1, 1977, or pursuant to this agreement, with respect to any "social services claims" as defined above.

(b) The State shall not be entitled to any additional reimbursement for any expenditure described in paragraph 1 above, except as provided by this agreement and by the legislation contemplated by this agreement with respect to claims not yet submitted, and the State will make no additional claim for reimbursement for such expenditures except as permitted by such legislation.

(c) All "unpaid claims" shall be settled by payment of the sum of \$249,166.76. The Secretary of the Department will certify this amount to the Secretary of the Treasury for payment upon request of the State following the enactment of appropriate legislation.

(4) Upon the enactment of legislation contemplated by this agreement, the Department and the State will take appropriate steps to inform any court in which there is pending litigation over "social services claims" of this agreement and the legislation enacted by Congress and will seek dismissal of the litigation.

(5) This entire agreement is subject to the enactment of appropriate legislation by the Congress of the United States.

(6) If the legislation contemplated by this agreement is not enacted, the agreement will not be used in any way by either party to the prejudice of the rights of the other.

W. DOUGLAS SKELTON, M.D.  
(For the State of Georgia).

THE UNDER SECRETARY OF HEALTH,  
EDUCATION, AND WELFARE,  
Washington, D.C.

Hon. GEORGE E. DANIELSON,  
Chairman, House Judiciary Subcommittee on Administrative Law, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: At the March 8 Subcommittee hearing, several questions were raised with regard to the bill that is currently before you for the resolution of all pre-title XX social service claims under the Social Security Act (H.R. 10101). Enclosed are responses to each of the inquiries directed to us for reply.

Set out in enclosures to this letter are: (1) a list of all pending civil actions and administrative disputes between the Department and the States regarding pre-title XX social service claims (Tab 1); (2) a copy of each of the agreements entered into between the Department and the States detailing the terms of the settlement between the parties pending passage of the bill (Tab 2); (3) a list that breaks down social service claims into pre and post June 30, 1972 periods (Tab 3); (4) a description of the time frames within which States submit social service claims to the Department after the period during which the expenditure was incurred (Tab 4); and (5) an indication of the relative amounts of the claims attributable to purchase from private versus public agencies (Tab 5).

We appreciate this opportunity to provide the Subcommittee data it believes useful to a full understanding of the proposed legislation, and hope that the material you find enclosed is satisfactory to your purposes.

If we can be of further assistance, do not hesitate to call upon us.

Sincerely yours,

EUGENE EIDENBERG,  
Deputy Under Secretary  
for Intergovernmental Affairs.

#### PRE-TITLE XX SOCIAL SERVICE LITIGATION CURRENTLY PENDING

(1) Maryland: *Mason v. DeGeorge, et al.* (U.S.D.C. D. Md.) Civil Action No. 73-436N, amount: \$25 million.

(2) Idaho: *Idaho Department of Social Services v. U.S., et al.* (U.S.D.C. D. Idaho) Civil Action No. 1-73-23, amount: \$1 million.

(3) Michigan: *Michigan v. Mathews*, (U.S.D.C. W.D. Mich.) Civil Action No. G-75-523, amount: \$27 million.

(4) Minnesota: *Minnesota v. Weinberger*, (U.S.D.C. D. Minn.) Civil Action No. 4-73-139, amount: \$46 million.

(5) Arkansas: *Ray v. Coster, et al.*, (U.S.D.C. E.D. Ark.) Civil Action No. LR-73-C-153, amount: \$7.1 million.

(6) Texas: *Texas State Department of Public Welfare v. Mathews* (U.S.D.C. C.A. 5th Cir.), Civil Action No. 75-1953, amount: \$92 million and *Texas State Department of Public Welfare v. Mathews* (U.S.D.C. W.D. Texas), Civil Action No. A-76-CA-118, amount: \$34 million.



(7) Washington: *Washington v. Weinberger*, (U.S.D.C. W.D. Wash.) Civil Action No. 663-73C2, amount: \$32.8 million.

(8) *Florida v. Mathews*, (U.S.D.C. D.C.) Civil Action No. 2173-73, amount: General guidelines applicable to claims litigated; no particular claims at issue.

#### PRE-TITLE XX SOCIAL SERVICE ADMINISTRATIVE HEARING

In the Matter of the New York Plan Amendments (Docket No. SRS 75-1), amount: While technically only the validity of New York's plan amendments is being determined in this proceeding, there are in excess of \$1.2 billion in social service claims that to some unknown extent hinge on the outcome.

#### PRE-TITLE XX SOCIAL SERVICES CLAIMS CURRENTLY UNDER RECONSIDERATION BY THE DEPARTMENT

- (1) Alabama—SS-AL7601 (\$1,032,650 PD).
- (2) Alaska—SS-AK7601 (\$705,873 PD).
- (3) Arizona—SS-AZ7401 (\$3,867,998 PD) and SS-AZ7601 (\$1,332,422 PD).
- (4) Arkansas—(\$3,835,883 (UNPD)) Court suit.
- (5) California—SS-CA7601 (\$146,101 PD), SS-CA7602 (\$550,991 PD), SS-CA7603 (\$286,095), SS-CA7604 (\$158,220), and SS-CA7605 (\$346,110 PD).
- (6) Connecticut—SS-CT7501 (\$39,916,762 (UNPD)) and SS-CT7502 (\$9,543,891: \$8,782,731 (PD) \$761,160 (UNPD)).
- (7) Florida—SS-FL7501 (\$57,837,340: \$29,102,938 (PD) \$28,734,402 (UNPD)). Not listed—SS-FL7602 (\$3,808,188 (UNPD)).
- (8) Georgia—SS-GA7504 (\$130,265 PD) SS-GA7602 (\$18,987 UNPD), SS-GA7501 (\$519,015 UNPD), SS-GA7503 (\$6,072,025 PD), and SS-GA7601 (\$117,700 UNPD).
- (9) Idaho—SS-ID7501 (\$ No Specific Amount) SS-ID7601 (919,309 Disallowance upheld by Acting Administrator on 12/15/75).
- (10) Illinois—SS-IL7501 (\$8,320,860 UNPD), SS-IL7601 (2) (\$5,767,365 UNPD), SS-IL7603 (\$1,314,816 UNPD), SS-IL6611 (\$66,008,294 UNPD), SS-IL7606 (\$188,433,576 PD), SS-IL7701 (\$53,254 UNPD), SS-IL7605 (5,831,095 UNPD), and SS-IL7702 (\$99,389 UNPD).
- (11) Kentucky—SS-KY7601 (\$2,358,983 PD).
- (12) Louisiana—SS-LA7502 (\$16,579,546 PD) and SS-LA7701 (\$101,000 PD).
- (13) Maine—SS-ME7601 (\$2,198,997 UNPD).
- (14) Maryland—(\$24,753,829 Maryland remand).
- (15) Massachusetts—SS-MA7601 (\$142,407,431: \$141,496,724 (UNPD), \$910,707 (PD)).
- (16) Michigan—SS-MI7602 (\$8,264,874: \$442,787 (PD)), \$7,822,087 (UNPD)), SS-MI7601 (\$10,871,136 UNPD), SS-MI7603 (\$1,353,069 UNPD), SS-MI7604 (\$2,317,618 UNPD), SS-MI7605 (\$830,416 UNPD), SS-MI7606 (\$19,323,293: \$5,524,390 (PD), \$13,798,903 UNPD)), and \$22,604,217 Disallowance upheld by Acting Administrator on 9/3/75.
- (17) Minnesota—SS-MN7704 (\$2,138,919 UNPD), SS-MN7501 (\$85,075,519 UNPD), SS-MN7701 (\$3,307,374 UNPD), SS-MN7601 (\$121,501 UNPD), SS-MN7602 (\$1,509,463 UNPD), SS-MN7702 (\$535,653 UNPD), SS-MN7703 (\$2,287,104 UNPD), and (\$3,255,499 UNPD).
- (25) Tennessee—SS-TN7501 (\$479,089 PD), SS-TN7601 (\$3,890 UNPD).
- (26) Texas—(a) SS-TX7601 (\$36,065,511: \$34,771,647 (PD), \$1,239,864 (UNPD)), (b) (\$92,731,245 UNPD)—Disallowance upheld by Acting Administrator 6/26/73.
- (27) Washington—SS-WA7601 (\$5,581,294 PD), Court Suit (\$32,876,908 UNPD).
- (28) Wisconsin—SS-WI7201 (\$60,391,000 UNPD), SS-WI7701 (\$6,250,115 PD), SS-WI7602 (\$4,396,864 UNPD), and SS-WI7603 (\$379,847 UNPD).

#### AGREEMENT

The Department of Health, Education, and Welfare ("Department") and the State of Arkansas ("State") agree as follows:

(1) This agreement covers claims of the State against the United States for reimbursement of expenditures made by the State prior to October 1, 1975, with respect to services (and related administrative costs) asserted by the State to have been provided (or incurred) under a state plan pursuant to Title I, IV, VI, X, XIV, or XVI of the Social Security Act (referred to in this agreement as "social service claims").



(2) There are presently pending unpaid "social services claims" of the State in the total amount of \$3,835,883.00 which have been deferred or disallowed or are otherwise unpaid as of the date of this agreement (these are referred to in this agreement as "unpaid claims").

(3) In order to conclude all disputes relating to the "social services claims," the Department and the State agree as follows:

(a) No new proceedings will be initiated with respect to "social services claims" and no further effort will be undertaken to recover any amount paid prior to April 1, 1977, or pursuant to this agreement, with respect to any "social services claims" as defined above.

(b) The State shall not be entitled to any additional reimbursement for any expenditure described in paragraph 1 above, except as provided by this agreement and by the legislation contemplated by this agreement with respect to claims not yet submitted, and the State will make no additional claim for reimbursement for such expenditures except as permitted by such legislation.

(c) All "unpaid claims" shall be settled by payment of the sum of \$2,224,812.14. The Secretary of the Department will certify this amount to the Secretary of the Treasury for payment upon request of the State following the enactment of appropriate legislation.

(4) Upon the enactment of legislation contemplated by this agreement, the Department and the State will take appropriate steps to inform any court in which there is pending litigation over "social services claims" of this agreement and the legislation enacted by Congress and will seek dismissal of the litigation.

(5) This entire agreement is subject to the enactment of appropriate legislation by the Congress of the United States.

(6) If the legislation contemplated by this agreement is not enacted, the agreement will not be used in any way by either party to the prejudice of the rights of the other.

DAVID PRYOR,  
(For the State of Arkansas).  
HALE CHAMPION

(For the Department of Health, Education, and Welfare).

#### CERTIFICATION

I, Joseph V. Stewart, am currently Deputy Director, Department of Finance and Administration, State of Arkansas. During the period July 1, 1971, through June 30, 1972, I held this same position. In this capacity I was, and am, the deputy chief fiscal officer for the State of Arkansas.

Therefore, I, Joseph V. Stewart, do hereby certify that during fiscal year 1972 agencies of the State of Arkansas which contracted with the Division of Social Services of the Arkansas Department of Social and Rehabilitative Services (now known as the Department of Human Services) verified expenditures totalling \$5,114,511 for social services which they provided during fiscal year 1972. Based upon these expenditures, the Division of Social Services submitted in final revised form on December 8, 1972, its quarterly Statement of Expenses (SRS-OA-41) for the quarter ending September 30, 1972. This statement included a prior quarter adjustment for retroactive payment under Titles IVA and XVI of the Social Security Act that increased the federal financial participation for the first quarter of fiscal year 1973 by \$3,835,883 (which is 75 percent of the total expenditure figure for all the provider agencies set forth above).

JOSEPH V. STEWART,  
Deputy Director.

Dated: October 18, 1977.



CERTIFICATION

I, JOSEPH V. STEWART, Deputy Director  
of the Department of Finance and Administration, State of  
Arkansas, hereby certify that the social services  
claims of the State of Arkansas that are the sub-  
ject of a settlement agreement with the United States  
Department of Health, Education, and Welfare are comprised  
of the following expenditures:

See attached vouchers..

To the best of my knowledge and belief, each  
of these expenditures is evidenced by appropriate account-  
ing or fiscal records of the State of Arkansas and  
represents expenditures actually incurred. Supporting  
documentation showing the method for calculating the  
amount of the claims is available in the possession of  
the State.

Date: October 18, 1977

Joseph V. Stewart  
JOSEPH V. STEWART



0. \*

251,760.00 ÷  
 90,535.50 ÷  
 22,570.50 ÷  
 13,040.00 ÷  
 72,056.25 ÷  
 31,987.83 ÷  
 375.00 ÷  
 448,851.75 ÷  
 30,372.83 ÷  
 4,444.59 ÷  
 10,407.48 ÷  
 3,096.00 ÷  
 1,650,697.46 ÷  
 1,114,190.96 ÷  
 22,377.37 ÷  
 64,119.65 ÷  
 3,835,883.14 \*

3,835,883.14 \*G

0. \*



STATE OF ARKANSAS  
ARKANSAS SOCIAL SERVICES

JUL 30 1972

433721

|                                                                                                                         |
|-------------------------------------------------------------------------------------------------------------------------|
| Name and Address of Payee                                                                                               |
| Cooperative Extension Service<br>University of Arkansas<br>Attn: A. W. Squires<br>P.O. Box 391<br>Little Rock, Arkansas |

WARRANT NO.

1971-72  
FISCAL YEARR.D. Nolen  
Disbursing Officer

## TO THE AUDITOR OF STATE:

As the bonded disbursing officer, or his authorized agent, of the state agency shown on this voucher, I hereby certify that the amount set out herein is a legal account due by the State of Arkansas for services rendered to, or purchases made by this agency for which payment has not heretofore been made; that said account has been found correct with consideration given to all allowable discounts and other credits; that such claim is in compliance with the applicable state purchasing and fiscal laws and regulations on the subject, and is within the provisions and limitations of funds available to this agency. I further certify that all required supporting papers, attached to this voucher, have been furnished or certified by the payee, that detail tickets or other substantiating evidence have been checked by this agency and found to agree with the statements attached, and that all original papers and detail supporting evidence for this account are on file in this agency for audit purposes.

| PURCHASE AND DESCRIPTION |  |  |  | ENCUMB. NO. | ACTVY. EXPEND. NO. | FIN. PAY | AMOUNT     |
|--------------------------|--|--|--|-------------|--------------------|----------|------------|
| EI Welfare Assistance    |  |  |  | 02          | 085 411            |          | 251,760 00 |
| Title IV-A RETRO         |  |  |  |             |                    |          |            |
| XVI                      |  |  |  |             |                    |          |            |
| 7/27/72                  |  |  |  |             |                    |          |            |
| GWP                      |  |  |  |             |                    |          |            |
| 695                      |  |  |  |             |                    |          |            |
| 812                      |  |  |  |             |                    |          |            |
| 6                        |  |  |  |             |                    |          |            |
| 1302                     |  |  |  |             |                    |          |            |
| TOTAL                    |  |  |  |             |                    |          | 251,760 00 |

(3) OFFICE COPY



STATE OF ARKANSAS  
ARKANSAS SOCIAL SERVICES

JUN 30 1972

4237723

WARRANTY NO.

1971-72  
FISCAL YEAR

Name and Address of Payee

Ark. State Dept. of Health  
4815 West Markham Street  
Little Rock, Arkansas 72201

R.D. Shotton  
Disbursing Officer

## TO THE AUDITOR OF STATE:

As the bonded disbursing officer, or his authorized agent, of the state agency shown on this voucher, I hereby certify that the amount set out herein is a legal account due by the State of Arkansas for services rendered to, or purchases made by this agency for which payment has not heretofore been made; that said account has been found correct with consideration given to all allowable discounts and other credits; that such claim is in compliance with the applicable state purchasing and fiscal laws and regulations on the subject, and is within the provisions and limitations of funds available to this agency. I further certify that all required supporting papers, attached to this voucher, have been furnished or certified by the payee, that detail tickets or other substantiating evidence have been checked by this agency and found to agree with the statements attached, and that all original papers and detail supporting evidence for this account are on file in this agency for audit purposes.

| PURCHASE AND DESCRIPTION |         | ENCUMB.<br>NO. | ACTVY.<br>NO. | EXPEND.<br>CODE | FIN.<br>PAY    | AMOUNT      |           |
|--------------------------|---------|----------------|---------------|-----------------|----------------|-------------|-----------|
| EI Welfare Assistance    |         | 02             | 085           | 411             |                | 90,535      | 50        |
| Title IV-A RETRO         |         |                |               |                 |                |             |           |
| TRANS. CODE              | DATE    | FUND CODE      | AGENCY CODE   | APPROPRIATION   | CHARACTER CODE | VOUCHER NO. | TOTAL     |
|                          | 7/27/72 | GWP            | 695           | 812             | 6              | 1306        | 90,535 50 |

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STATE OF ARKANSAS  
ARKANSAS SOCIAL SERVICES JUN 30 1972

433130

WARRANT NO.

1971-72

FISCAL YEAR

Name and Address of Payee

Dept. of Social & Rehab. Services  
406 National Old Line Building  
Little Rock, Arkansas

*R.D. Hester*  
Disbursing Officer

## TO THE AUDITOR OF STATE:

As the bonded disbursing officer, or his authorized agent, of the state agency shown on this voucher, I hereby certify that the amount set out herein is a legal account due by the State of Arkansas for services rendered to, or purchases made by this agency for which payment has not heretofore been made; that said account has been found correct with consideration given to all allowable discounts and other credits; that such claim is in compliance with the applicable state purchasing and fiscal laws and regulations on the subject, and is within the provisions and limitations of funds available to this agency. I further certify that all required supporting papers, attached to this voucher, have been furnished or certified by the payee, that detail tickets or other substantiating evidence have been checked by this agency and found to agree with the statements attached, and that all original papers and detail supporting evidence for this account are on file in this agency for audit purposes.

| PURCHASE AND DESCRIPTION |         |           |             | ENCUMB.<br>NO. | ACTVY. EXPEND.<br>NO. CODE | FIN.<br>PAY. | AMOUNT |    |
|--------------------------|---------|-----------|-------------|----------------|----------------------------|--------------|--------|----|
| EI Welfare Assistance    |         |           |             | 02             | 085 411                    |              | 18,040 | 00 |
| Title IV-A RETRO         |         |           |             |                |                            |              |        |    |
| TRANS. CODE              | DATE    | FUND CODE | AGENCY CODE | APPROPRIATION  | CHARACTER CODE             | VOUCHER NO.  | TOTAL  |    |
|                          | 7/27/72 | GWP       | 695         | 812            | 6                          | 1298         | 18,040 | 00 |

(3) OFFICE COPY







STATE OF ARKANSAS  
ARKANSAS SOCIAL SERVICES

JUN 30 1972  
3 0 1972

423105

Name and Address of Payee

Arkansas Veterans' Service Office  
Federal Office Building - Room 4319  
700 West Capitol  
Little Rock, Arkansas 72201

WARRANT NO.

1971-72  
FISCAL YEAR

Disbursing Officer

TO THE AUDITOR OF STATE:

As the bonded disbursing officer, or his authorized agent, of the state agency shown on this voucher, I hereby certify that the amount set out herein is a legal account due by the State of Arkansas for services rendered to, or purchases made by this agency for which payment has not heretofore been made; that said account has been found correct with consideration given to all allowable discounts and other credits; that such claim is in compliance with the applicable state purchasing and fiscal laws and regulations on the subject, and is within the provisions and limitations of funds available to this agency. I further certify that all required supporting papers, attached to this voucher, have been furnished or certified by the payee, that detail tickets or other substantiating evidence have been checked by this agency and found to agree with the statements attached, and that all original papers and detail supporting evidence for this account are on file in this agency for audit purposes.

| PURCHASE AND DESCRIPTION |         |           |             |               | ENCUMB.<br>NO. | ACTVY.<br>NO. | EXPEND.<br>CODE | FIN.<br>PAY | AMOUNT |    |
|--------------------------|---------|-----------|-------------|---------------|----------------|---------------|-----------------|-------------|--------|----|
| EI Welfare Assistance    |         |           |             |               | 02             | 085           | 411             |             | 31,987 | 83 |
| Title IV-A RETRO         |         |           |             |               |                |               |                 |             |        |    |
| TRANS. CODE              | DATE    | FUND CODE | AGENCY CODE | APPROPRIATION | CHARACTER CODE | VOUCHER NO.   |                 | TOTAL       |        |    |
|                          | 7/27/72 | GWP       | 695         | 812           | 6              | 1305          |                 | 31,987 83   |        |    |

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STATE OF ARKANSAS  
ARKANSAS SOCIAL SERVICES

JUN 20 1972

483432

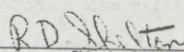
Name and Address of Payee

Juvenile Service Division  
402 Capitol Hill Building  
Little Rock, Arkansas 72201

WARRANT NO.

1971-72

FISCAL YEAR

  
Disbursing Officer

## TO THE AUDITOR OF STATE:

As the bonded disbursing officer, or his authorized agent, of the state agency shown on this voucher, I hereby certify that the amount set out herein is a legal account due by the State of Arkansas for services rendered to, or purchases made by this agency for which payment has not heretofore been made; that said account has been found correct with consideration given to all allowable discounts and other credits; that such claim is in compliance with the applicable state purchasing and fiscal laws and regulations on the subject, and is within the provisions and limitations of funds available to this agency. I further certify that all required supporting papers, attached to this voucher, have been furnished or certified by the payee, that detail tickets or other substantiating evidence have been checked by this agency and found to agree with the statements attached, and that all original papers and detail supporting evidence for this account are on file in this agency for audit purposes.

| PURCHASE AND DESCRIPTION |         | ENCUMB.<br>NO. | ACTVY.<br>NO. | EXPEND.<br>CODE | FIN.<br>PAY    | AMOUNT      |           |
|--------------------------|---------|----------------|---------------|-----------------|----------------|-------------|-----------|
| El Welfare Assistance    | 02      |                | 085           | 411             |                | 30,372      | 83        |
| Title IV-A RETRO         |         |                |               |                 |                |             |           |
| TRANS. CODE              | DATE    | FUND CODE      | AGENCY CODE   | APPROPRIATION   | CHARACTER CODE | VOUCHER NO. | TOTAL     |
|                          | 7/27/72 | GWP            | 695           | 812             | 6              | 1301        | 30,372 83 |

(3) OFFICE COPY







STATE OF ARKANSAS  
ARKANSAS SOCIAL SERVICES

JUN 30 1972

432136

Name and Address of Payee

Ark. Veterans Child Welfare Service  
1415 West 7th Street  
Little Rock, Arkansas

WARRANT NO.

1971-72  
FISCAL YEAR

*R.D. Shulten*  
Disbursing Officer

## TO THE AUDITOR OF STATE:

As the bonded disbursing officer, or his authorized agent, of the state agency shown on this voucher, I hereby certify that the amount set out herein is a legal account due by the State of Arkansas for services rendered to, or purchases made by this agency for which payment has not heretofore been made; that said account has been found correct with consideration given to all allowable discounts and other credits; that such claim is in compliance with the applicable state purchasing and fiscal laws and regulations on the subject, and is within the provisions and limitations of funds available to this agency. I further certify that all required supporting papers, attached to this voucher, have been furnished or certified by the payee, that detail tickets or other substantiating evidence have been checked by this agency and found to agree with the statements attached, and that all original papers and detail supporting evidence for this account are on file in this agency for audit purposes.

| PURCHASE AND DESCRIPTION |         |           |             | ENCUMB.<br>NO. | ACTVY.<br>NO.  | EXPEND.<br>CODE | FIN.<br>PAY | AMOUNT |    |
|--------------------------|---------|-----------|-------------|----------------|----------------|-----------------|-------------|--------|----|
| EI Welfare Assistance    |         |           |             | 02             | 085            | 411             |             | 10,407 | 48 |
| Title 4-A RETRO          |         |           |             |                |                |                 |             |        |    |
| TRANS. CODE              | DATE    | FUND CODE | AGENCY CODE | APPROPRIATION  | CHARACTER CODE | VOUCHER NO.     | TOTAL       |        |    |
|                          | 7/27/72 | GWP       | 695         | 812            | 6              | 1307            | 10,407      | 48     |    |

(3) OFFICE COPY







STATE OF ARKANSAS  
ARKANSAS SOCIAL SERVICES

JUN. 30 1972

423725

Name and Address of Payee

Mental Retardation-Dev. Disab. Serv.  
Ark. Dept. of Soc. & Rehab. Service  
Professional Bldg., 18th & Maple Sts.  
North Little Rock, Arkansas

WARRANT NO.

1971-72  
FISCAL YEAR

*R.D. Dutton*  
Disbursing Officer

## TO THE AUDITOR OF STATE:

As the bonded disbursing officer, or his authorized agent, of the state agency shown on this voucher, I hereby certify that the amount set-out herein is a legal account due by the State of Arkansas for services rendered to, or purchases made by this agency for which payment has not heretofore been made; that said account has been found correct with consideration given to all allowable discounts and other credits; that such claim is in compliance with the applicable state purchasing and fiscal laws and regulations on the subject, and is within the provisions and limitations of funds available to this agency; I further certify that all required supporting papers, attached to this voucher, have been furnished or certified by the payee, that detail tickets or other substantiating evidence have been checked by this agency and found to agree with the statements attached, and that all original papers and detail supporting evidence for this account are on file in this agency for audit purposes.

| PURCHASE AND DESCRIPTION |         | ENCUMB.<br>NO. | ACTY. EXPEND.<br>NO. | CODE          | FIN.<br>PAY    | AMOUNT      |              |
|--------------------------|---------|----------------|----------------------|---------------|----------------|-------------|--------------|
| EI Welfare Assistance    |         | 02             | 085                  | 411           |                | 1,650,697   | 46           |
| Title IV-A RETRO         |         |                |                      |               |                |             |              |
| 16                       |         |                |                      |               |                |             |              |
| 749 320, 52              |         |                |                      |               |                |             |              |
| TRANS. CODE              | DATE    | FUND CODE      | AGENCY CODE          | APPROPRIATION | CHARACTER CODE | VOUCHER NO. | TOTAL        |
|                          | 7/28/72 | GWP            | 695                  | 812           | 6              | 1311        | 1,650,697 46 |

(3) OFFICE COPY











STATE OF ARKANSAS  
ARKANSAS SOCIAL SERVICES

JUN 30 1972

433723

Name and Address of Payee

Phillips County Community College  
Community Services Division  
Helena, Arkansas

WARRANT NO.

1971-72

FISCAL YEAR

Disbursing Officer

TO THE AUDITOR OF STATE:

TO THE AUDITOR OF STATE:

As the bonded or other officer, or his authorized agent, of the state agency shown on this voucher, I hereby certify that the amount set out herein is a true and correct statement of the amount of the bill rendered by the State of Arkansas for services rendered to, or purchases made by this agency for which payment has not heretofore been made: that said account has been found correct with consideration given to all allowable discounts and other credits: that such claim is in compliance with the applicable state purchasing and fiscal laws and regulations on the subject, and is within the provisions and limitations of the contract or contracts made with the contractor or contractors by the payee, that detail tickets accompany I further certify that all required supporting papers, vouchers, and receipts have been furnished to the Auditor of State, and that the Auditor of State, after examining the same, has found the account to be correct and true, and has approved the same, and that all original papers and detail supporting evidence for this account are on file in this agency for audit purposes.

| PURCHASE AND DESCRIPTION |         |           |             | ENCUMB.<br>NO. | ACTVY. EXPEND.<br>NO. CODE | FIN.<br>PAY | AMOUNT |    |
|--------------------------|---------|-----------|-------------|----------------|----------------------------|-------------|--------|----|
| EI Welfare Assistance    |         |           |             | 02             | 085 411                    |             | 64,119 | 65 |
| Title IV-A RETRO         |         |           |             | 52,699.83      |                            |             |        |    |
|                          |         |           |             | 11,419.82      |                            |             |        |    |
| TRANS. CODE              | DATE    | FUND CODE | AGENCY CODE | APPROPRIATION  | CHARACTER CODE             | VOUCHER NO. | TOTAL  |    |
|                          | 7/28/72 | GWP       | 695         | 812            | 6                          | 1308        | 64,119 | 65 |

(3) OFFICE COPY



## AGREEMENT

The Department of Health, Education, and Welfare ("Department") and the State of Connecticut ("State") agree as follows:

(1) This agreement covers claims of the State against the United States for reimbursement of expenditures made by the State prior to October 1, 1975, with respect to services (and related administrative costs) asserted by the State to have been provided (or incurred) under a state plan pursuant to Title I, IV, VI, X, XIV, or XVI of the Social Security Act (referred to in this agreement as "social services claims").

(2) There are presently pending unpaid "social services claims" of the State in the total amount of \$38,841,880.00 which have been deferred or disallowed or are otherwise unpaid as of the date of this agreement (these are referred to in this agreement as "unpaid claims"). In addition, the State has received and presently holds \$6,016,693.00 in federal funds representing "social services claims," the payment of which has been questioned by the Department and as to which formal steps have been initiated to recover the funds (these are referred to in this agreement as "paid claims").

(3) In order to conclude all disputes relating to the "social services claims," the Department and the State agree as follows:

(a) All pending administrative proceedings with respect to "paid claims" will be terminated. No new proceedings will be initiated with respect to "social services claims" and no further effort will be undertaken to recover any amount paid prior to April 1, 1977, or pursuant to this agreement, with respect to any "social service claims" as defined above.

(b) The State shall not be entitled to any additional reimbursement for any expenditure described in paragraph 1 above, except as provided by this agreement and by the legislation contemplated by this agreement with respect to claims not yet submitted, and the State will make no additional claim for reimbursement for such expenditures except as permitted by such legislation.

(c) All "unpaid claims" shall be settled by payment of the sum of \$22,528,290.40. The Secretary of the Department will certify this amount to the Secretary of the Treasury for payment upon request of the State following the enactment of appropriate legislation.

(4) Upon the enactment of legislation contemplated by this agreement, the Department and the State will take appropriate steps to inform any court in which there is pending litigation over "social services claims" of this agreement and the legislation enacted by Congress and will seek dismissal of the litigation.

(5) This entire agreement is subject to the enactment of appropriate legislation by the Congress of the United States.

(6) If the legislation contemplated by this agreement is not enacted, the agreement will not be used in any way by either party to the prejudice of the rights of the other.

EDWARD W. MAHER,  
Commissioner, Department of Social Services,  
(For the State of Connecticut).  
HALE CHAMPION,

(For the Department of Health, Education, and Welfare).

Dated: October 18, 1977.

## CERTIFICATION AS TO COMPROMISE OF DISPUTED CLAIM

Pursuant to the provisions of Section 3-7 of the Connecticut General Statutes, and on recommendation of the Attorney General of the State of Connecticut, I authorize Edward Maher, Commissioner of the Department of Social Services for the State of Connecticut, to settle the claim of the Department of Social Services against the Department of Health, Education and Welfare pursuant to the attached Agreement of six (6) numbered paragraph dated October 18, 1977, to be signed by him as my authorized representative and by an authorized representative of the Department of Health, Education and Welfare.

ELLA GRASSO, Governor.

Dated: October 18, 1977.

## CERTIFICATION

I, Edward Maher, Commissioner of the Department of Social Services, State of Connecticut, hereby certify that the social services claims of the State of Connecticut that are the subject of a settlement agreement with the United States Department of Health, Education, and Welfare are comprised of the following expenditures:



Department of Mental Health (10/1/71-12/31/72) \$18,619,931 Unpaid.  
 Department of Mental Retardation (10/1/71-12/31/72) \$7,437,814 Unpaid.  
 Commission on Adult Probation (10/1/71-12/31/72) \$668,683 Unpaid.  
 Department of Correction (10/1/71-12/31/72) \$631,238 Unpaid.  
 Department of Children and Youth Services (10/1/71-12/31/72) \$3,378,340 Unpaid.  
 Department of Community Affairs (10/1/71-12/31/72) \$3,636,925 Unpaid.  
 Department of Health (10/1/71-9/30/72) \$111,617 Unpaid.  
 Board of Education and Services to the Blind (10/1/71-9/30/72) \$192,511 Unpaid.  
 Retirement Adjustment for Above (10/1/71-12/31/72) \$637,612 Unpaid.  
 Services in Child Caring Institutions (7/1/70-9/30/72) \$2,766,039 Unpaid.  
 Services in Child Caring Institutions (1/1/75-3/31/75) \$761,160 Unpaid.  
 Services in Child Caring Institutions and Total Unpaid Claim (10/1/72-12/31/74) \$38,841,880; (4/1/75-6/30/75) \$6,016,693 Paid; Total Paid and Unpaid Claims \$44,858,573.

To the best of my knowledge and belief, each of these expenditures is evidenced by appropriate accounting or fiscal records of the State of *Connecticut* and represents expenditures actually incurred. Supporting documentation showing the method for calculating the amount of the claims is available in the possession of the State.

EDWARD W. MAHER.

Dated: October 18, 1977.

#### AGREEMENT

The Department of Health, Education, and Welfare ("Department") and the State of Florida ("State") agree as follows:

(1) This agreement covers claims of the State against the United States for reimbursement of expenditures made by the State prior to October 1, 1975, with respect to services (and related administrative costs) asserted by the State to have been provided (or incurred) under a state plan pursuant to Title I, IV, VI, X, XIV, or XVI of the Social Security Act (referred to in this agreement as "social services claims").

(2) There are presently pending unpaid "social services claims" of the State in the total amount of \$28,734,402.00 which have been deferred or disallowed or are otherwise unpaid as of the date of this agreement (these are referred to in this agreement as "unpaid claims"). In addition, the State has received and presently holds \$29,102,938.00 in federal funds representing "social services claims," the payment of which has been questioned by the Department and as to which formal steps have been initiated to recover the funds (these are referred to in this agreement as "paid claims").

(3) In order to conclude all disputes relating to the "social services claims," the Department and the State agree as follows:

(a) All pending administrative proceedings with respect to "paid claims" will be terminated. No new proceedings will be initiated with respect to "social services claims" and no further effort will be undertaken to recover any amount paid prior to April 1, 1977, or pursuant to this agreement, with respect to any "social services claims" as defined above.

(b) The State shall not be entitled to any additional reimbursement for any expenditure described in paragraph 1 above, except as provided by this agreement and by the legislation contemplated by this agreement with respect to claims not yet submitted, and the State will make no additional claim for reimbursement for such expenditures except as permitted by such legislation.

(c) All "unpaid claims" shall be settled by payment of the sum of \$10,919,072.76. The Secretary of the Department will certify this amount to the Secretary of the Treasury for payment upon request of the State following the enactment of appropriate legislation.

(4) Upon the enactment of legislation contemplated by this agreement, the Department and the State will take appropriate steps to inform any court in which there is pending litigation over "social services claims" of this agreement and the legislation enacted by Congress and will seek dismissal of the litigation.

(5) This entire agreement is subject to the enactment of appropriate legislation by the Congress of the United States.



(6) If the legislation contemplated by this agreement is not enacted, the agreement will not be used in any way by either party to the prejudice of the rights of the other.

REUBIN ASKEW  
(For the State of Florida).  
HALE CHAMPION

(For the Department of Health, Education, and Welfare).

Dated: October —, 1977.

#### CERTIFICATION

I, William J. Page, Jr., Secretary of the Department of Health and Rehabilitative Services, State of Florida, hereby certify that the social services claims of the State of Florida that are the subject of a settlement agreement with the United States Department of Health, Education, and Welfare are comprised of the following expenditures: Attachment A.—Paid Claims and Attachment B—Unpaid Claims.

To the best of my knowledge and belief, each of these expenditures is evidenced by appropriate accounting or fiscal records of the State of Florida and represents expenditures actually incurred. Supporting documentation showing the method for calculating the amount of the claims is available in the possession of the State.

WILLIAM J. PAGE, Jr.

(Attachment A)

#### PAID CLAIMS

| <i>Department or subject and period</i>                                   | <i>Amount</i>                 |
|---------------------------------------------------------------------------|-------------------------------|
| Division of Health (July 1971–June 1972)-----                             | \$1, 105, 789. 78             |
| Division of Vocational Rehabilitation (July 1971–June 1972):              |                               |
| Bureau of Blind-----                                                      | 46, 074. 00                   |
| Bureau of Crippled Children-----                                          | 487, 152. 00                  |
| Division of Corrections (July 1971–June 1972)-----                        | 369, 441. 00                  |
| Division of Retardation:                                                  |                               |
| Grant-In-Aid to ARC's (July 1971–June 1972)-----                          | 875, 667. 22                  |
| Day Care Centers (July 1971–May 1972)-----                                | 242, 318. 84                  |
| Regional Center—St. Petersburg (July 1971–June 1972)---                   | 177, 877. 00                  |
| Regional Center—Jacksonville (July 1971–June 1972)----                    | 80, 255. 00                   |
| Sunland Hospital—Tallahassee (July 1971–June 1972)-----                   | 418, 981. 00                  |
| Sunland Hospital—Orlando (July 1971–June 1972)-----                       | 39, 038. 00                   |
| Sunland Training Centers:                                                 |                               |
| Marianna (July 1971–June 1972)-----                                       | 213, 318. 00                  |
| Gainesville (July 1971–June 1972)-----                                    | 243, 760. 69                  |
| Fort Meyers (July 1971–June 1972)-----                                    | 442, 355. 00                  |
| Miami (July 1971–June 1972)-----                                          | 1, 852, 708. 00               |
| Division of Youth Services:                                               |                               |
| Bureau of Field Services (January 1971–September 1972) --                 | 2, 157, 185. 03               |
| Bureau of Group Treatment (July 1971–June 1972)-----                      | 66, 166. 65                   |
| Bureau of Training Schools:                                               |                               |
| Marianna (July 1971–August 1972)-----                                     | 169, 475. 08                  |
| Okeechobee (July 1971–August 1972)-----                                   | 272, 793. 57                  |
| Ocala (July 1971–August 1972)-----                                        | 158, 895. 90                  |
| Trenton (July 1971–August 1972)-----                                      | 198, 028. 83                  |
| Bureau of Community Services (July 1971–June 1972)----                    | 31, 829. 57                   |
| Division of Mental Health:                                                |                               |
| General Office Administration (July 1971–August 1972)---                  | 371, 980. 53                  |
| Bureau of Community Mental Health Centers (July 1971–September 1972)----- | 6, 275, 922. 67               |
| Central Office Administration (July 1971–August 1972)---                  | 444, 024. 80                  |
| Bureau of Alcoholic Rehabilitation (July 1971–August 1972)-----           | 555, 860. 83                  |
| Bureau of Mental Institutions:                                            |                               |
| Florida State Hospital (July 1971–August 1972)-----                       | 4, 950, 544. 38               |
| North East Florida State Hospital (July 1971–August 1972)-----            | 2, 872, 112. 26               |
| South Florida State Hospital (July 1971–August 1972) -                    | 3, 314, 881. 30               |
| G. Pierce Wood Memorial Hospital (July 1971–August 1972)-----             | 2, 609, 657. 85               |
| Total-----                                                                | <sup>1</sup> 31, 044, 094. 78 |

<sup>1</sup> \$1,941,160 has been resolved by agreement with the regional office, leaving a balance in dispute of \$29,102,938.



## (Attachment B)

| <i>Division and period</i>                             | <i>UNPAID CLAIMS</i> | <i>Amount</i>    |
|--------------------------------------------------------|----------------------|------------------|
| Vocational rehabilitation (July 1972-June 1973)-----   |                      | \$224, 215. 00   |
| Children's Medical Services (July 1973-June 1974)----- |                      | 340, 377. 00     |
| <hr/>                                                  |                      |                  |
| Mental Health:                                         |                      |                  |
| (July 1972-June 1973)-----                             |                      | 3, 841, 871. 00  |
| (July 1973-June 1974)-----                             |                      | 10, 392, 390. 00 |
| Total-----                                             |                      | 14, 234, 261. 00 |
| <hr/>                                                  |                      |                  |
| Youth Services:                                        |                      |                  |
| (July 1972-June 1973)-----                             |                      | 1, 739, 810. 00  |
| (July 1973-June 1974)-----                             |                      | 3, 596, 662. 00  |
| Total-----                                             |                      | 5, 336, 472. 00  |
| <hr/>                                                  |                      |                  |
| Retardation:                                           |                      |                  |
| (July 1972-June 1973)-----                             |                      | 2, 952, 209. 00  |
| (July 1973-June 1974)-----                             |                      | 5, 646, 868. 00  |
| Total-----                                             |                      | 8, 599, 077. 00  |
| <hr/>                                                  |                      |                  |
| Total-----                                             |                      | 28, 734, 402. 00 |

## AGREEMENT

The Department of Health, Education, and Welfare ("Department") and the State of Georgia ("State") agree as follows:

(1) This agreement covers claims of the State against the United States for reimbursement of expenditures made by the State prior to October 1, 1975, with respect to services (and related administrative costs) asserted by the State to have been provided (or incurred) under a state plan pursuant to Title I, VI, X, XIV, or XVI of the Social Security Act (referred to in this agreement as "social services claims").

(2) There are presently pending unpaid "social services claims" of the State in the total amount of \$655,702.00 which have been deferred or disallowed or are otherwise unpaid as of the date of this agreement (these are referred to in this agreement as "unpaid claims"). In addition, the State has received and presently holds \$6,072,025.00 in federal funds representing "social services claims," the payment of which has been questioned by the Department and as to which formal steps have been initiated to recover the funds (these are referred to in this agreement as "paid claims").

(3) In order to conclude all disputes relating to the "social services claims," the Department and the State agree as follows:

(a) All pending administrative proceedings with respect to "paid claims" will be terminated. No new proceedings will be initiated with respect to "social services claims" and no further effort will be undertaken to recover any amount paid prior to April 1, 1977, or pursuant to this agreement, with respect to any "social services claims" as defined above.

(b) The State shall not be entitled to any additional reimbursement for any expenditure described in paragraph 1 above, except as provided by this agreement and by the legislation contemplated by this agreement with respect to claims not yet submitted, and the State will make no additional claim for reimbursement for such expenditures except as permitted by such legislation.

(c) All "unpaid claims" shall be settled by payment of the sum of \$249,166.76. The Secretary of the Department will certify this amount to the Secretary of the Treasury for payment upon request of the State following the enactment of appropriate legislation.

(4) Upon the enactment of legislation contemplated by this agreement, the Department and the State will take appropriate steps to inform any court in which there is pending litigation over "social services claims" of this agreement and the legislation enacted by Congress and will seek dismissal of the litigation.

(5) This entire agreement is subject to the enactment of appropriate legislation by the Congress of the United States.



(6) If the legislation contemplated by this agreement is not enacted, the agreement will not be used in any way by either party to the prejudice of the rights of the other.

W. DOUGLAS SKELTON, M.D.  
(For the State of Georgia).

HALE CHAMPION

(For the Department of Health, Education, and Welfare.)

Dated: October , 1977.

#### CERTIFICATION

I, W. Douglas Skelton, M.D., Commissioner of the Department of Human Resources, State of Georgia, hereby certify that the social services claims of the State of Georgia, that are the subject of a settlement agreement with the United States Department of Health, Education, and Welfare are comprised of the following expenditures:

#### Unpaid social service claims:

|                                                                                     |                 |
|-------------------------------------------------------------------------------------|-----------------|
| Atlanta Public School Systems (prior to June 30, 1974)-----                         | \$75, 660       |
| Atlanta Employment Evaluation and Service Center (prior to June 30, 1974)-----      | 156, 818        |
| Cheerhaven Schools, Inc. (prior to June 30, 1974)-----                              | 35, 596         |
| Cerebral Palsy Center of Atlanta (prior to June 30, 1974)-----                      | 21, 393         |
| Georgia Department of Offender Rehabilitation (prior to June 30, 1974)-----         | 229, 548        |
| <b>Total Federal funds (prior to June 30, 1974)-----</b>                            | <b>519, 015</b> |
| Renewal House, Inc. (see SRS-DF-27, second quarter 1976 grant award)-----           | 65, 200         |
| Forsyth County Bay Care Center (see SRS-DF-27, third quarter 1976 grant award)----- | 18, 987         |
| Renewal House, Inc. (see SRS-DF-27, third quarter 1976 grant award)-----            | 52, 500         |
| <b>Total-----</b>                                                                   | <b>655, 702</b> |

#### Paid social service claims:

|                                                    |                    |
|----------------------------------------------------|--------------------|
| Atlanta School Board-----                          | 3, 064, 810        |
| Atlanta Housing Authority-----                     | 319, 860           |
| Atlanta Model Cities-----                          | 90, 853            |
| Georgia Department of Offender Rehabilitation----- | 608, 249           |
| Gate City Day Care Association-----                | 182, 789           |
| DHR Division of Mental Health-----                 | 897, 718           |
| DHR Division of Vocational Rehabilitation-----     | 907, 746           |
| <b>Total (July 1, 1972 to Mar. 31, 1974)-----</b>  | <b>6, 072, 025</b> |

To the best of my knowledge and belief, each of these expenditures is evidenced by appropriate accounting of fiscal records of the State of Georgia and represents expenditures actually incurred. Supporting documentation showing the method for calculating the amount of the claims is available in the possession of the State.

Date: October 24, 1977.

W. DOUGLAS SKELTON, M.D.,  
Commissioner,  
(Georgia Department of Human Resources).

#### AGREEMENT

The Department of Health, Education, and Welfare ("Department") and the State of Idaho ("State") agree as follows:

(1) This agreement covers claims of the State against the United States for reimbursement of expenditures made by the State prior to October 1, 1975, with respect to services (and related administrative costs) asserted by the State to have provided (or incurred) under a state plan pursuant to Title I, IV, VI, X, XIV, or XVI of the Social Security Act (referred to in this agreement as "social services claims").



(2) There are presently pending unpaid "social services claims" of the State in the total amount of \$1,145,758.00 which have been deferred or disallowed or are otherwise unpaid as of the date of this agreement (these are referred to in this agreement as "unpaid claims").

(3) In order to conclude all disputes relating to the "social services claims," the Department and the State agree as follows:

(a) No new proceedings will be initiated with respect to "social services claims" and no further effort will be undertaken to recover any amount paid prior to April 1, 1977, or pursuant to this agreement, with respect to any "social services claims" as defined above.

(b) The State shall not be entitled to any additional reimbursement for any expenditure described in paragraph 1 above, except as provided by this agreement and by the legislation contemplated by this agreement with respect to claims not yet submitted, and the State will make no additional claim for reimbursement for such expenditures except as permitted by such legislation.

(c) All "unpaid claims" shall be settled by payment of the sum of \$664,539.64. The Secretary of the Department will certify this amount to the Secretary of the Treasury for payment upon request of the State following the enactment of appropriate legislation.

(4) Upon the enactment of legislation contemplated by this agreement, the Department and the State will take appropriate steps to inform any court in which there is pending litigation over "social services claims" of this agreement and the legislation enacted by Congress and will seek dismissal of the litigation.

(5) This entire agreement is subject to the enactment of appropriate legislation by the Congress of the United States.

(6) If the legislation contemplated by this agreement is not enacted, the agreement will not be used in any way by either party to the prejudice of the rights of the other.

JOHN V. EVANS  
(For the State of Idaho).

HALE CHAMPION

(For the Department of Health, Education, and Welfare).

Dated: October —, 1977.

#### CERTIFICATION

I, Milton G. Klein, Director of the Department of Health and Welfare, State of Idaho, hereby certify that the social services claims of the State of Idaho that are the subject of a settlement agreement with the United States Department of Health, Education, and Welfare are comprised of the following expenditures.

|                                                                        |                   |
|------------------------------------------------------------------------|-------------------|
| Social service contracts quarter ending (June 30, 1972) -----          | \$412, 831        |
| Social service contracts quarter ending (Sept. 30, 1972) -----         | 506, 477          |
| Child development center services quarter ending (Sept. 30, 1972) ---- | 226, 450          |
|                                                                        | <hr/> 1, 145, 758 |

To the best of my knowledge and belief, each of these expenditures is evidenced by appropriate accounting or fiscal records of the State of Idaho and represents expenditures actually incurred. Supporting documentation showing the method for calculating the amount of the claims is available in the possession of the State.

MILTON G. KLEIN.

#### AGREEMENT

The Department of Health, Education, and Welfare ("Department") and the State of Illinois ("State") agree as follows:

(1) This agreement covers claims of the State against the United States for reimbursement of expenditures made by the State prior to October 1, 1975, with respect to services (and related administrative costs) asserted by the State to have provided (or incurred) under a state plan pursuant to Title I, IV, VI, X, XIV, or XVI of the Social Security Act (referred to in this agreement as "social services claims").

(2) There are presently pending unpaid "social services claims" of the State in the total amount of \$87,295,284.00 which have been deferred or disallowed or are otherwise unpaid as of the date of this agreement (these are referred to in this agreement as "unpaid claims"). In addition, the State has received and presently holds \$188,433,576.00 in federal funds representing "social services claims," the payment of which has been questioned by the Department and as to which formal steps have been initiated to recover the funds (these are referred to in this agreement as "paid claims").



(3) In order to conclude all disputes relating to the "social services claims," the Department and the State agree as follows:

(a) All pending administrative proceedings with respect to "paid claims" will be terminated. No new proceedings will be initiated with respect to "social services claims" and no further effort will be undertaken to recover any amount paid prior to April 1, 1977, or pursuant to this agreement, with respect to any "social services claims" as defined above.

(b) The State shall not be entitled to any additional reimbursement for any expenditure described in paragraph 1 above, except as provided by this agreement and by the legislation contemplated by this agreement with respect to claims not yet submitted, and the State will make no additional claim for reimbursement for such expenditures except as permitted by such legislation.

(c) All "unpaid claims" shall be settled by payment of the sum of \$32,053,349.40. The Secretary of the Department will certify this amount to the Secretary of the Treasury for payment upon request of the State following the enactment of appropriate legislation.

(4) Upon the enactment of legislation contemplated by this agreement, the Department and the State will take appropriate steps to inform any court in which there is pending litigation over "social services claims" of this agreement and the legislation enacted by Congress and will seek dismissal of the litigation.

(5) This entire agreement is subject to the enactment of appropriate legislation by the Congress of the United States.

(6) If the legislation contemplated by this agreement is not enacted, the agreement will not be used in any way by either party to the prejudice of the rights of the other.

(For the State of Illinois).

HALE CHAMPION

(For the Department of Health, Education, and Welfare).

Dated: October—, 1977.

#### CERTIFICATION

I, Norman L. Ryan, Deputy Director for Financial Management of the Illinois Department of Public Aid, State of Illinois, hereby certify that the social services claims of the State of Illinois that are the subject of a settlement agreement with the United States Department of Health, Education, and Welfare are comprised of the following expenditures:

#### *Provider agencies/Service identification*

|                                                                                                                                                                        |                                      |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------|
| Illinois Dept. of Public Aid and other agencies:                                                                                                                       |                                      |
| AABD Social Services (claims exceeding the 90/10 Limitation of P.L. 95-512) for Fiscal Year 1973 DHEW No. SS-IL7501—Unpaid Claim                                       | FFP at<br>issue<br>\$8, 320, 860. 00 |
| Illinois Department of Children and Family Services:                                                                                                                   |                                      |
| Subsidized adoption services:                                                                                                                                          |                                      |
| For QE Sept. 30, 1975                                                                                                                                                  | 246, 328                             |
| For fiscal year 1974                                                                                                                                                   | 389, 414                             |
| Child advocacy/counseling for fiscal year 1974:                                                                                                                        | 569, 527                             |
| Herrick House residential treatment facility services, for fiscal year 1974                                                                                            | 109, 547                             |
| DHEW No. SS-IL7603—Unpaid Claim                                                                                                                                        | 1, 314, 816. 00                      |
| Day care, furnished by Model Cities—Chicago Committee on Urban Opportunity (now City of Chicago Department of Human Services):                                         |                                      |
| (DHEW No. SS-IL7602)                                                                                                                                                   | 5, 767, 365                          |
| (DHEW No. SS-IL7702)                                                                                                                                                   | 99, 389                              |
| (DHEW No. SS-IL7703)                                                                                                                                                   | 18, 788                              |
| MC-CCUO day care—Unpaid claim                                                                                                                                          | 5, 885, 542. 00                      |
| Office of Superintendent of Public Instruction (now Illinois Office of Education), Adult Education and Training, fiscal years 1972-75: DHEW No. SS-IL7605—Unpaid claim | 5, 831, 095. 00                      |



Illinois Department of Mental Health and Developmental Disabilities, Social Services:

|                                                                                                      |                                 |
|------------------------------------------------------------------------------------------------------|---------------------------------|
| (a) Services purchased during Oct. 1, 1972 through Sept. 30, 1975 (DHEW No. SS-IL7611)—Unpaid claims | FFP at issue<br>\$66,008,294.00 |
| (b) Services purchased during Oct. 1, 1970 through Dec. 31, 1974 (DHEW No. SS-IL7606)—Paid claims    | 188,433,576.00                  |
| Total                                                                                                | 275,794,183.00                  |
| Summary of disallowed claims for pre-October 1975 social services:                                   |                                 |
| Total of paid claims, disallowed subsequent to payment                                               | 188,433,576.00                  |
| Total of unpaid claims:                                                                              |                                 |
| Disallowed prior to Jan. 1, 1977                                                                     | 87,242,430.00                   |
| Disallowed after Dec. 31, 1976                                                                       | 118,177.00                      |
| Subtotal                                                                                             | 275,794,183.00                  |
| Less: Unresolved difference between above subtotal and DHEW computation of September 1977            | (65,323.00)                     |
| DHEW computation of Disallowed FFP as of September 1977                                              | 275,728,860.00                  |

To the best of my knowledge and belief, each of these expenditures is evidenced by appropriate accounting or fiscal records of the State of Illinois and represents expenditures actually incurred. Supporting documentation showing the method for calculating the amount of the claims is available in the possession of the State.

NORMAN L. RYAN.

Dated: October 12, 1977.

*Breakdown of Illinois Department of Mental Health and Developmental Disabilities unpaid social services claims for \$66,008,294 (Oct. 1, 1972–Sept. 30, 1975)*

| <i>Date of claim and period of expenditures</i>   | <i>Amount</i> |
|---------------------------------------------------|---------------|
| June 4, 1973 (Oct. 1, 1972 to Dec. 31, 1972)      | \$660,588     |
| May 7, 1975 (July 1, 1972 to June 30, 1973)       | 1,102,952     |
| May 7, 1975 (Jan. 1, 1975 to Mar. 31, 1975)       | 13,124,016    |
| August 12, 1975 (July 1, 1973 to June 30, 1974)   | 12,419,453    |
| August 12, 1975 (Apr. 1, 1975 to June 30, 1975)   | 14,761,679    |
| December 4, 1975 (July 1, 1975 to Sept. 30, 1975) | 13,975,162    |
| May 11, 1976 (fiscal year 1975):                  |               |
| Line 13, OA-41                                    | 19,387,075    |
| Line 10b, OA-41                                   | (477,658)     |
| Total claim                                       | 74,953,267    |
| Amount paid                                       | 8,944,973     |
| Total unpaid claim                                | 66,008,294    |

AGREEMENT

The Department of Health, Education, and Welfare ("Department") and the State of Maine ("State") agree as follows:

(1) This agreement covers claims of the State against the United States for reimbursement of expenditures made by the State prior to October 1, 1975, with respect to services (and related administrative costs) asserted by the State to have been provided (or incurred) under a state plan pursuant to Title I, IV, VI, X, XIV, or XVI of the Social Security Act (referred to in this agreement as "social services claims").

(2) There are presently pending unpaid "social services claims" of the State in the total amount of \$2,198,997.00 which have been deferred or disallowed or are otherwise unpaid as of the date of this agreement (these are referred to in this agreement as "unpaid claims").

(3) In order to conclude all disputes relating to the "social services claims," the Department and the State agree as follows:

(a) No new proceedings will be initiated with respect to "social services claims" and no further effort will be undertaken to recover any amount paid prior to April 1, 1977, or pursuant to this agreement, with respect to any "social services claims" as defined above.



(b) The State shall not be entitled to any additional reimbursement for any expenditure described in paragraph 1 above, except as provided by this agreement and by the legislation contemplated by this agreement with respect to claims not yet submitted, and the State will make no additional claim for reimbursement for such expenditures except as permitted by such legislation.

(c) All "unpaid claims" shall be settled by payment of the sum of \$1,275,418.26. The Secretary of the Department will certify this amount to the Secretary of the Treasury for payment upon request of the State following the enactment of appropriate legislation.

(4) Upon the enactment of legislation contemplated by this agreement, the Department and the State will take appropriate steps to inform any court in which there is pending litigation over "social services claims" of this agreement and the legislation enacted by Congress and will seek dismissal of the litigation.

(5) This entire agreement is subject to the enactment of appropriate legislation by the Congress of the United States.

(6) If the legislation contemplated by this agreement is not enacted, the agreement will not be used in any way by either party to the prejudice of the rights of the other.

JAMES B. LANGLEY,  
(For the State of Maine).

HALE CHAMPION,  
Education, and Welfare).

(For the Department of Health,

Dated: October —, 1977.

#### CERTIFICATION

I, David E. Smith, Commissioner of the Department of Human Services, State of Maine, hereby certify that the social services claims of the State of Maine that are the subject of a settlement agreement with the United States Department of Health, Education, and Welfare are comprised of the following expenditures:

|                                                      |              |
|------------------------------------------------------|--------------|
| Augusta and Bangor Mental Health Institutes-----     | \$159,422.00 |
| Pineland Hospital and Training Center-----           | 163,076.00   |
| Bureau of Mental Health-----                         | 637,120.00   |
| Bureau of Mental Retardation-----                    | 73,999.00    |
| Maine Youth Center Aftercare and Stevens School----- | 424,629.00   |
| Probation and Parole-----                            | 213,191.00   |
| Bath Military and Naval Home-----                    | 100,798.00   |
| Maine Commission on Drug Abuse-----                  | 99,025.00    |
| Women's Correctional Center Halfway House-----       | 40,070.00    |
| Women's Correctional Center-----                     | 16,315.00    |
| Elizabeth Levinson Center-----                       | 5,792.00     |
| Department of Education-----                         | 265,560.00   |
| Total-----                                           | 2,198,997.00 |

To the best of my knowledge and belief, each of these expenditures is evidenced by appropriate accounting and fiscal records of the State of Maine and represents expenditures actually incurred. Supporting documentation showing the method for calculating the amount of the claims is available in the possession of the State.

#### AGREEMENT

The Department of Health, Education, and Welfare ("Department") and the State of Maryland ("State") agree as follows:

(1) This agreement covers claims of the State against the United States for reimbursement of expenditures made by the State prior to October 1, 1975, with respect to services (and related administrative costs) asserted by the State to have been provided (or incurred) under a state plan pursuant to Title I, IV, VI, X, XIV, or XVI of the Social Security Act (referred to in this agreement as "social services claims").

(2) There are presently pending unpaid "social services claims" of the State in the total amount of \$24,753,829.00 which have been deferred or disallowed or are otherwise unpaid as of the date of this agreement (these are referred to in this agreement as "unpaid claims").

(3) In order to conclude all disputes relating to the "social services claims," the Department and the State agree as follows:



(a) No new proceedings will be initiated with respect to "social services claims" and no further effort will be undertaken to recover any amount paid prior to April 1, 1977, or pursuant to this agreement, with respect to any "social services claims" as defined above.

(b) The State shall not be entitled to any additional reimbursement for any expenditure described in paragraph 1 above, except as provided by this agreement and by the legislation contemplated by this agreement with respect to claims not yet submitted, and the State will make no additional claim for reimbursement for such expenditures except as permitted by such legislation.

(c) All "unpaid claims" shall be settled by payment of the sum of \$14,357,220.82. The Secretary of the Department will certify this amount to the Secretary of the Treasury for payment upon request of the State following the enactment of appropriate legislation.

(4) Upon the enactment of legislation contemplated by this agreement, the Department and the State will take appropriate steps to inform any court in which there is pending litigation over "social services claims" of this agreement and the legislation enacted by Congress and will seek dismissal of the litigation.

(5) This entire agreement is subject to the enactment of appropriate legislation by the Congress of the United States.

(6) If the legislation contemplated by this agreement is not enacted, the agreement will not be used in any way by either party to the prejudice of the rights of the other.

BLAIR LEE III

(For the State of Maryland, Acting Governor).

HALE CHAMPION

(For the Department of Health, Education, and Welfare).

Dated: October —, 1977.

#### CERTIFICATION

I, Richard A. Batterton, Secretary of the Department of Human Resources, State of Maryland, hereby certify that the social services claims of the State of Maryland that are subject of a settlement agreement with the United States Department of Health, Education, and Welfare are comprised of the following expenditures:

| <i>Provider agency and time period</i>                              | <i>Amount</i>      |
|---------------------------------------------------------------------|--------------------|
| Division of Alcoholism Control (Apr. 1, 1972–Sept. 30, 1972)-----   | \$1, 690, 643      |
| Preventive Medicine Administration (Apr. 1, 1972–Sept. 30, 1972)--- | 338, 609           |
| Mental Health Administration (Apr. 1, 1972–Sept. 30, 1972)-----     | 6, 800, 641        |
| Drug Abuse Administration (Apr. 1, 1972–Sept. 30, 1972)-----        | 1, 067, 650        |
| Mental Retardation Administration (Apr. 1, 1972–Sept. 30, 1972)---- | 1, 071, 895        |
| Division of Juvenile Services (Apr. 1, 1972–Sept. 30, 1972)-----    | 4, 511, 900        |
| Department of Education (Apr. 1, 1972–Sept. 30, 1972)-----          | 8, 380, 363        |
| Maryland Workshop for the Blind (Apr. 1, 1972–Sept. 30, 1972)-----  | 892, 128           |
|                                                                     | <hr/> 24, 753, 829 |

All of the above have not been paid by HEW as of this date.

To the best of my knowledge and belief, each of these expenditures is evidenced by appropriate accounting or fiscal records of the State of Maryland and represents expenditures actually incurred. Supporting documentation showing the method for calculating the amount of the claims is available in the possession of the State.

RICHARD A. BATTERTON,  
*Secretary of Human Resources.*

Dated: October 13, 1977.

#### AGREEMENT

The Department of Health, Education, and Welfare ("Department") and the Commonwealth of Massachusetts ("State") agree as follows:

(1) This agreement covers claims of the State against the United States for reimbursement of expenditures made by the State prior to October 1, 1975, with respect to services (and related administrative costs) asserted by the State to have been provided (or incurred) under a state plan pursuant to Title I, IV, VI, X, XIV, or XVI of the Social Security Act (referred to in this agreement as "social services claims").



(2) There are presently pending unpaid "social services claims" of the State in the total amount of \$141,403,562 which have been deferred or disallowed or are otherwise unpaid as of the date of this agreement (these are referred to in this agreement as "unpaid claims").

(3) In order to conclude all disputes relating to the "social services claims," the Department and the State agree as follows:

(a) No new proceedings will be initiated with respect to "social services claims" and no further effort will be undertaken to recover any amount paid prior to April 1, 1977, or pursuant to this agreement, with respect to any "social services claims" as defined above.

(b) The State shall not be entitled to any additional reimbursement for any expenditure described in paragraph 1 above, except as provided by this agreement and by the legislation contemplated by this agreement with respect to claims not yet submitted, and the State will make no additional claim for reimbursement for such expenditures except as permitted by such legislation.

(c) All "unpaid claims" shall be settled by payment of the sum of \$74,701,-781.00. The Secretary of the Department will certify this amount to the Secretary of the Treasury for payment upon request of the State following the enactment of of appropriate legislation.

(4) Upon the enactment of legislation contemplated by this agreement, the Department and the State will take appropriate steps to inform any court in which there is pending litigation over "social services claims" of this agreement and the legislation enacted by Congress and will seek dismissal of the litigation.

(5) This entire agreement is subject to the enactment of appropriate legislation by the Congress of the United States.

(6) If the legislation contemplated by this agreement is not enacted, the agreement will not be used in any way by either party to the prejudice of the rights of the other.

MICHAEL S. DUKAKIS,

(For the Commonwealth of Massachusetts).

HALE CHAMPION

(For the Department of Health, Education, and Welfare).

Dated: October —, 1977.

#### CERTIFICATION

I, Alexander E. Sharp, II, Commissioner of the Department of Public Welfare, Commonwealth of Massachusetts, hereby certify that the social services claims of the Commonwealth of Massachusetts that are the subject of a settlement agreement with the United States Department of Health, Education, and Welfare are comprised of the expenditures set forth on the attached sheet.

To the best of my knowledge and belief, each of these expenditures is evidenced by appropriate accounting or fiscal records of the Commonwealth of Massachusetts and represents expenditures actually incurred. Supporting documentation showing the method for calculating the amount of the claims is available in the possession of the Commonwealth.

ALEXANDER E. SHARP II,

Commissioner.

Dated: October 20, 1977.

#### COMMONWEALTH OF MASSACHUSETTS SOCIAL SERVICES CLAIMS DISALLOWED BY HEW<sup>1</sup>

| Quarter claim      | Department of education | Executive office of human services | Office of veterans' services | Department of youth services | Office for children | Department of public health | Department of mental health |
|--------------------|-------------------------|------------------------------------|------------------------------|------------------------------|---------------------|-----------------------------|-----------------------------|
| Sept. 30, 1973     | } \$4,037,401           | \$54,710                           | \$126,972                    | \$1,666,817                  | \$374,099           | 955,602                     | \$29,519,224                |
| Dec. 31, 1973      |                         | 454,362                            | 586,198                      | 5,173,691                    | 483,662             | 798,794                     | 46,645,920                  |
| March 31, 1974     |                         | 24,673                             | 118,367                      | (18,038)                     | 205,170             |                             | 6,531,085                   |
| June 30, 1974      |                         |                                    |                              |                              | 301,085             |                             | 11,729,187                  |
| Sept. 30, 1974     |                         |                                    |                              |                              |                     |                             | 5,509,430                   |
| Dec. 31, 1974      |                         |                                    |                              |                              |                     |                             | 19,574,296                  |
| March 31, 1975     |                         |                                    |                              |                              |                     |                             | 3,838,558                   |
| June 30, 1975      |                         |                                    |                              |                              |                     |                             | 10,878                      |
| Sept. 30, 1975     |                         |                                    |                              |                              | 1,387,434           |                             | 200,286                     |
| Dec. 31, 1975      |                         |                                    |                              |                              | 65,908              |                             |                             |
| March 31, 1976     |                         |                                    |                              |                              | 23,887              |                             |                             |
| Total <sup>2</sup> | 4,037,401               | 533,745                            | 831,537                      | 6,727,470                    | 2,841,245           | 1,754,396                   | 123,558,864                 |

<sup>1</sup> The U.S. Department of Health, Education, and Welfare (HEW) asserts that it has paid \$900,000 of the above disallowed claims. The Massachusetts Department of Public Welfare has no record of payment of any portion of the above claims.

<sup>2</sup> The initial claim of \$6,060,174 has been revised.

<sup>3</sup> The total of all disallowed claims is \$140,384,658.



## AGREEMENT

The Department of Health, Education, and Welfare ("Department") and the State of Michigan ("State") agree as follows:

(1) This agreement covers claims of the State against the United States for reimbursement of expenditures made by the State prior to October 1, 1975, with respect to services (and related administrative costs) asserted by the State to have been provided (or incurred) under a state plan pursuant to Title I, IV, VI, X, XIV, or XVI of the Social Security Act (referred to in this agreement as "social services claims").

(2) There are presently pending unpaid "social services claims" of the State in the total amount of \$57,085,511.00 which have been deferred or disallowed or are otherwise unpaid as of the date of this agreement (these are referred to in this agreement as "unpaid claims"). In addition, the State has received and presently holds \$8,389,108.00 in federal funds representing "social services claims," the payment of which has been questioned by the Department and as to which formal steps have been initiated to recover the funds (these are referred to in this agreement as "paid claims").

(3) In order to conclude all disputes relating to the "social services claims," the Department and the State agree as follows:

(a) All pending administrative proceedings with respect to "paid claims" will be terminated. No new proceedings will be initiated with respect to "social services claims" and no further effort will be undertaken to recover any amount paid prior to April 1, 1977, or pursuant to this agreement, with respect to any "social services claims" as defined above.

(b) The State shall not be entitled to any additional reimbursement for any expenditure described in paragraph 1 above, except as provided by this agreement and by the legislation contemplated by this agreement with respect to claims not yet submitted, and the State will make no additional claim for reimbursement for such expenditures except as permitted by such legislation.

(c) All "unpaid claims" shall be settled by payment of the sum of \$32,542,755. The Secretary of the Department will certify this amount to the Secretary of the Treasury for payment upon request of the State following the enactment of appropriate legislation.

(4) Upon the enactment of legislation contemplated by this agreement, the Department and the State will take appropriate steps to inform any court in which there is pending litigation over "social services claims" of this agreement and the legislation enacted by Congress and will seek dismissal of the litigation.

(5) This entire agreement is subject to the enactment of appropriate legislation by the Congress of the United States.

(6) If the legislation contemplated by this agreement is not enacted, the agreement will not be used in any way by either party to the prejudice of the rights of the other.

WILLIAM G. MILLIKEN  
(For the State of Michigan).  
HALE CHAMPION

(For the Department of Health, Education, and Welfare).

Dated: October 11, 1977.

## CERTIFICATION

I, John T. Dempsey, Director of the Department of Social Services, State of Michigan, hereby certify that the social services claims of the State of Michigan that are subject of a settlement agreement with the United States Department of Health, Education and Welfare are comprised of the following expenditures:

| <i>Provider and status</i>                       | <i>Amount</i>       |
|--------------------------------------------------|---------------------|
| Fiscal year 1972:                                |                     |
| Department of Education (unpaid)-----            | \$8, 269, 180       |
| Department of Public Health (unpaid)-----        | 4, 032, 556         |
| Department of Mental Health—Act 54 (unpaid)----- | 8, 861, 288         |
| Michigan State University (unpaid)-----          | 430, 902            |
| Office of Services to Blind (unpaid)-----        | 7, 381              |
| Office of Youth Services (unpaid)-----           | 1, 947, 751         |
| Department of Mental Health (unpaid)-----        | 10, 781, 136        |
| Department of Corrections-----                   | 1, 353, 069         |
| Total-----                                       | <u>35, 683, 263</u> |



## Fiscal year 1973:

|                                           | <i>Amount</i>       |
|-------------------------------------------|---------------------|
| Department of Mental Health:              |                     |
| Unpaid-----                               | \$4, 173, 549       |
| Paid-----                                 | 1, 092, 571         |
| Office of Youth Services (unpaid)-----    | 1, 372, 773         |
| Department of Education:                  |                     |
| (Unpaid)-----                             | 6, 123, 266         |
| (Paid)-----                               | 442, 787            |
| Department of Public Health (unpaid)----- | 21, 633             |
| Total-----                                | <u>13, 226, 579</u> |

## Fiscal year 1974:

|                                       |                    |
|---------------------------------------|--------------------|
| Department of Education (unpaid)----- | 1, 792, 784        |
| Department of Mental Health:          |                    |
| (Unpaid)-----                         | 5, 690, 046        |
| (Paid)-----                           | 1, 329, 360        |
| Total-----                            | <u>8, 812, 190</u> |

## Fiscal year 1975:

|                              |                     |
|------------------------------|---------------------|
| Department of Mental Health: |                     |
| (Unpaid)-----                | 2, 228, 197         |
| (Paid)-----                  | 5, 524, 390         |
| Total-----                   | <u>7, 752, 587</u>  |
| Grand total-----             | <u>65, 474, 619</u> |

To the best of my knowledge and belief, each of these expenditures is evidenced by appropriate accounting or fiscal records of the State of Michigan and represents expenditures actually incurred. Supporting documentation showing the method for calculating the amount of the claims is available in the possession of the State.

JOHN C. DEMPSEY.

Dated October 11, 1977.

## AGREEMENT

The Department of Health, Education, and Welfare ("Department") and the State of Minnesota ("State") agree as follows:

(1) This agreement covers claims of the State against the United States for reimbursement of expenditures made by the State prior to October 1, 1975, with respect to services (and related administrative costs) asserted by the State to have been provided (or incurred) under a State plan pursuant to Title I, IV, VI, X, XIV, or XVI of the Social Security Act (referred to in this agreement as "social services claims").

(2) There are presently pending unpaid "social services claims" of the State in the total amount of \$47,344,176.00 which have been deferred or disallowed or are otherwise unpaid as of the date of this agreement (these are referred to in this agreement as "unpaid claims"). In addition, the State has received and presently holds \$6,234,254.00 in federal funds representing "social services claims," the payment of which has been questioned by the Department and as to which formal steps have been initiated to cover the funds (these are referred to in this agreement as "paid claims").

(3) In order to conclude all disputes relating to the "social services claims," the Department and the State agree as follows:

(a) All pending administrative proceedings with respect to "paid claims" will be terminated. No new proceedings will be initiated with respect to "social services claims" and no further effort will be undertaken to recover any amount paid prior to April 1, 1977, or pursuant to this agreement, with respect to any "social services claims" as defined above.

(b) The State shall not be entitled to any additional reimbursement for any expenditure described in paragraph 1 above, except as provided by this agreement and by the legislation contemplated by this agreement with respect to claims not yet submitted, and the State will make no additional claim for reimbursement for such expenditures except as permitted by such legislation.

(c) All "unpaid claims" shall be settled by payment of the sum of \$27,459,622.08. The Secretary of the Department will certify this amount to the Secretary of the Treasury for payment upon request of the State following the enactment of appropriate legislation.



(4) Upon the enactment of legislation contemplated by this agreement, the Department and the State will take appropriate steps to inform any court in which there is pending litigation over "social services claims" of this agreement and the legislation enacted by Congress and will seek dismissal of the litigation.

(5) This entire agreement is subject to the enactment of appropriate legislation by the Congress of the United States.

(6) If the legislation contemplated by this agreement is not enacted, the agreement will not be used in any way by either party to the prejudice of the rights of the other.

RUDY PERPICH  
(For the State of Minnesota).  
HALE CHAMPION

(For the Department of Health, Education, and Welfare).

Dated: October—, 1977.

COVINGTON & BURLING,  
Washington, D.C., November 14, 1977.

Re Social services settlement.

RICHARD BEATTIE, Esq.,  
Deputy General Counsel,  
Department of Health, Education, and Welfare,  
Washington, D. C.

DEAR DICK: AS I explained to Gene Eidenberg on Saturday, October 29, there was a change in the figures for Minnesota subsequent to the execution of their initial Certification. The signed contract reflects the new (lower) figures for claims pending and the amount of the payment. However, I had not yet received the new Certification to support these figures. I have now received the Certification, and I enclose it so that you may include it with the others.

Sincerely,

CHARLES A. MILLER.

(1) Claims for Periods Through Fiscal Year 1972

| Date claimed:                    | Amount         |
|----------------------------------|----------------|
| June 30, 1972-----               | \$17, 000, 000 |
| September 30, 1972-----          | 3, 341, 672    |
| June 30, 1972-----               | 22, 858, 847   |
| November 15, 1972-----           | 41, 875, 000   |
| Total claimed <sup>1</sup> ----- | 41, 875, 000   |
| Amount paid-----                 | 4, 000, 000    |
| Total unpaid-----                | 37, 875, 000   |

<sup>1</sup> Part of this sum is included in HEW disallowance proceedings No. SSMN 7501, SSMN 7602, and other pending but unnumbered HEW disallowance proceedings.

The disparity in these figures stems from the fact that, while all four sums were claimed on the dates indicated, the last claim of \$41,875,000.00 on November 15, 1972, was intended as a substitution for the three earlier claims. At various points in time, all four claims or just the third claim were listed as the amount of the Minnesota claim; this produced the erroneous \$98.1 million figure.

(2) Claims for periods after fiscal year 1972 and prior to October 1975.

| Identification:                                          | Amount claimed |
|----------------------------------------------------------|----------------|
| SSMN 7602-----                                           | \$1, 509, 463  |
| SSMN 7701-----                                           | 3, 307, 374    |
| SSMN 7702-----                                           | 2, 307, 327    |
| SSMN 7703-----                                           | 2, 902, 798    |
| SSMN 7704-----                                           | 2, 138, 919    |
| Hennepin County group homes-----                         | 339, 812       |
| Hennepin County residential treatment <sup>4</sup> ----- | 70, 783        |
| Identification:                                          | Adjustment     |
| SSMN 7602 <sup>2</sup> -----                             | —\$1, 026, 130 |
| SSMN 7702 <sup>3</sup> -----                             | —77, 966       |
| Hennepin County residential treatment <sup>5</sup> ----- | +231, 050      |
| Total adjustments-----                                   | —873, 046      |
| Total claimed-----                                       | 11, 703, 430   |

See footnotes at end of table.



## Identification:

|            |                          |
|------------|--------------------------|
| SSMN 7702  | Amount paid <sup>6</sup> |
| SSMN 7703  | \$1, 939, 675            |
|            | 294, 579                 |
| Total paid | 2, 234, 254              |

<sup>2</sup> The \$1,509,463.00 in controversy in SSMN 7602 has been adjusted to reflect the fact that \$1,026,130.00 of that figure is also included in the claim for the period through fiscal year 1972 listed in the first part of the table.

<sup>3</sup> The \$2,307,327.00 listed in the October 13, 1977, certification as the claimed amount in SSMN 7702 failed to include \$100,302.00 claimed for monitoring and evaluation and duplicated \$178,268.00 for a contract for Higher Education for Low Income Persons; see a letter of December 7, 1976, from SRS Acting Regional Commissioner Downing to Minnesota Commissioner Likins for an explanation of these two adjustments. The total is a downward adjustment of \$77,966.00.

<sup>4</sup> The \$339,852.00 claimed for Hennepin County Group Homes has been disallowed by HEW but not yet assigned a formal disallowance number.

<sup>5</sup> This claim has been disallowed by HEW but not yet assigned a formal disallowance number. \$70,783.00 was listed as the amount claimed in the October 13, 1977, certification; this figure omitted \$231,050.00 claimed by the state and allowed by HEW, but never paid; see a September 15, 1977, letter from Eli Lipschultz of the HEW Region V office to the state for a clarification.

<sup>6</sup> These payments were inadvertently omitted from the October 13, 1977, certification; they were made to the state principally on June 13, 1977, and August 15, 1977, but did not appear on MDPW's fiscal records until after October 13, 1977.

## (3) Summary.

|               |              |
|---------------|--------------|
| Total claimed | \$53,578,430 |
| Total paid    | 6, 234, 254  |
| Total unpaid  | 47, 344, 176 |

## AGREEMENT

The Department of Health, Education, and Welfare ("Department") and the State of New Jersey ("State") agree as follows:

(1) This agreement covers claims of the State against the United States for reimbursement of expenditures made by the State prior to October 1, 1975, with respect to services (and related administrative costs) asserted by the State to have been provided (or incurred) under a state plan pursuant to Title I, IV, VI, X, XIV, or XVI of the Social Security Act (referred to in this agreement as "social service claims").

(2) There are presently pending unpaid "social services claims" of the State in the total amount of \$1,270,813.00 which have been deferred or disallowed or are otherwise unpaid as of the date of this agreement (these are referred to in this agreement as "unpaid claims").

(3) In order to conclude all disputes relating to the "social services claims," the Department and the State agree as follows:

(a) No new proceedings will be initiated with respect to "social services claims" and no further effort will be undertaken to recover any amount paid prior to April 1, 1977, or pursuant to this agreement, with respect to any "social services claims" as defined above.

(b) The State shall not be entitled to any additional reimbursement for any expenditure described in paragraph 1 above, except as provided by this agreement and by the legislation contemplated by this agreement with respect to claims not yet submitted, and the State will make no additional claim for reimbursement for such expenditures except as permitted by such legislation.

(c) All "unpaid claims" shall be settled by payment of the sum of \$737,071.54. The Secretary of the Department will certify this amount to the Secretary of the Treasury for payment upon request of the State following the enactment of appropriate legislation.

(4) Upon the enactment of legislation contemplated by this agreement, the Department and the State will take appropriate steps to inform any court in which there is pending litigation over "social services claims" of this agreement and the legislation enacted by Congress and will seek dismissal of the litigation.

(5) This entire agreement is subject to the enactment of appropriate legislation by the Congress of the United States.



(6) If the legislation contemplated by this agreement is not enacted, the agreement will not be used in any way by either party of the prejudice of the right of the other.

\_\_\_\_\_  
Governor, State of New Jersey.  
ALVIN F. HYLONE,  
Attorney General, State of New Jersey.

\_\_\_\_\_  
Commissioner of the New Jersey  
Department of Human Services.  
HALE CHAMPION,  
Department of Health, Education, and Welfare.

Dated: October —, 1977.

#### CERTIFICATION

I, Anthony P. Sant'Angelo, Comptroller of the Department of Human Services, State of New Jersey, hereby certify that the social services claims of the State of New Jersey that are the subject of a settlement agreement with the United States Department of Health, Education, and Welfare are comprised of the following expenditures:

#### Title IVA program services:

|                                      | <i>Disallowed claims</i> |
|--------------------------------------|--------------------------|
| Health services.....                 | 378, 713                 |
| Adoption services.....               | 170, 957                 |
| Monmouth County family planning..... | 239, 884                 |
| AFWP social services allocated.....  | 481, 259                 |
| Total.....                           | 1, 270, 813              |

To the best of my knowledge and belief, each of these expenditures is evidenced by appropriate accounting or fiscal records of the State of New Jersey and represents expenditures actually incurred. Supporting documentation showing the method for calculating the amount of the claim is available in the possession of the State.

A. P. SANT'ANGELO.

Dated: October 17, 1977.

#### AGREEMENT

The Department of Health, Education, and Welfare ("Department") and the State of Ohio ("State") agree as follows:

(1) This agreement covers claims of the State against the United States for reimbursement of expenditures made by the State prior to October 1, 1975, with respect to services (and related administrative costs) asserted by the State to have been provided (or incurred) under a State plan pursuant to Title I, IV, VI, X, XIV, or XVI of the Social Security Act (referred to in this agreement as ("social services claims")).

(2) There are presently pending unpaid "social service claims" of the State that exceeds the total amount of \$15,111,405.00 which have been deferred or disallowed, or which we have been instructed by the Department not to claim, or are otherwise unpaid as of the date of this agreement (these are referred to in this agreement as "unpaid claims"). In addition, the State has received and presently holds \$4,949,402.00 in federal funds representing "social services claims," the payment of which has been questioned by the Department and as to which formal steps have been initiated to recover the funds (these are referred to in this agreement as "paid claims").

(3) In order to conclude all disputes relating to the "social services claims," the Department and the State agree as follows:

(a) All pending administrative proceedings with respect to "paid claims" will be terminated. No new proceedings will be initiated with respect to "social services claims" and no further effort will be undertaken to recover any amount paid prior to April 1, 1977, or pursuant to this agreement, with respect to any "social services claims" as defined above.



(b) The State shall not be entitled to any additional reimbursement for any expenditure described in paragraph 1 above except as provided by this agreement and by the legislation contemplated by this agreement with respect to claims not yet submitted, and the State will make no additional claim for reimbursement for such expenditures except as permitted by such legislation.

(c) All "unpaid claims" shall be settled by payment of the sum of \$5,742,333.90. The Secretary of the Department will certify this amount to the Secretary of the Treasury for payment upon request of the State following the enactment of appropriate legislation.

(4) Upon the enactment of legislation contemplated by this agreement, the Department and the State will take appropriate steps to inform any court in which there is pending litigation over "social services claims" of this agreement and the legislation enacted by Congress and will seek dismissal of the litigation.

(5) This entire agreement is subject to the enactment of appropriate legislation by the Congress of the United States.

(6) If the legislation contemplated by this agreement is not enacted, the agreement will not be used in any way by either party to the prejudice of the rights of the other.

KENNETH B. GREGORY,  
(For the State of Ohio).

DALE CHAMPION,  
(For the Department of Health,  
Education, and Welfare).

Dated: October 31, 1977.

#### CERTIFICATION

I, Kenneth B. Creasy, Director of the Department of Public Welfare, State of Ohio, hereby certify that the social services claims of the State of Ohio that are subject of a settlement agreement with the United States Department of Health, Education, and Welfare are comprised of the following expenditures:

| <i>Provider and status</i>                                                           | <i>FFP amount</i>   |
|--------------------------------------------------------------------------------------|---------------------|
| January-March 1973 Ohio Youth Commission (unpaid)-----                               | \$1, 743, 653       |
| April-June 1973 Ohio Youth Commission (unpaid)-----                                  | 1, 568, 338         |
| July-September 1973 Ohio Youth Commission (unpaid)-----                              | 2, 037, 779         |
| October-December 1973 Ohio Youth Commission (unpaid)-----                            | 1, 842, 465         |
| <b>Total</b> -----                                                                   | <b>7, 192, 235</b>  |
| January-March 1974 Ohio Youth Commission (unpaid)-----                               | 2, 106, 595         |
| April-June 1974 Ohio Youth Commission (unpaid)-----                                  | 1, 660, 126         |
| Mental health and Mental retardation (unpaid)-----                                   | 1, 594, 747         |
| <b>Total</b> -----                                                                   | <b>5, 361, 468</b>  |
| July-September 1974 Ohio Youth Commission (Instructed not claim<br>by HEW).-----     | 2, 045, 857         |
| October-December 1974 Ohio Youth Commission (Instructed not to<br>claim by HEW)----- | 2, 228, 020         |
| <b>Total</b> -----                                                                   | <b>4, 273, 877</b>  |
| <b>Grand total</b> -----                                                             | <b>16, 827, 580</b> |

To the best of my knowledge and belief, each of these expenditures is evidenced by appropriate accounting or fiscal records of the State of Ohio and represents expenditures actually incurred. Supporting documentation showing the method for calculating the amount of the claims is available in the possession of the State.

KENNETH B. CREASY.

Dated: December 5, 1977.

#### CERTIFICATION

I, Kenneth B. Creasy, Director of the Department of Public Welfare, State of Ohio, hereby certify that the social services claims of the State of Ohio that are the subject of a settlement agreement with the United States Department of Health, Education, and Welfare are comprised of the following expenditures:

State agency contracts, \$16,827,580.00.



To the best of my knowledge and belief, each of these expenditures is evidenced by appropriate accounting or fiscal records of the State of Ohio and represents expenditures actually incurred. Supporting documentation showing the method for calculating the amount of the claims is available in the possession of the State.

KENNETH B. CREASY.

Dated October 31, 1977.

#### AGREEMENT

The Department of Health, Education, and Welfare ("Department") and the State of Oklahoma ("State") agree as follows:

(1) This agreement covers claims of the State against the United States for reimbursement of expenditures made by the State prior to October 1, 1975, with respect to services (and related administrative costs) asserted by the State to have been provided (or incurred) under a state plan pursuant to Title I, IV, VI, X, XIV, or XVI of the Social Security Act (referred to in this agreement as "social services claims").

(2) The State has received and presently holds \$13,829,333.29 in federal funds representing "social services claims," the payment of which has been questioned by the Department and as to which formal steps have been initiated to recover the funds (these are referred to in this agreement as "paid claims").

(3) In order to conclude all disputes relating to the "social services claims," the Department and the State agree as follows:

(a) All pending administrative proceedings with respect to "paid claims" will be terminated. No new proceedings will be initiated with respect to "social services claims" and no further effort will be undertaken to recover any amount paid prior to April 1, 1977, with respect to any "social services claims" as defined above.

(b) The State shall not be entitled to any additional reimbursement for any expenditures described in paragraph 1 above, and the State will make no additional claim for reimbursement for such expenditures.

(4) Upon the enactment of legislation contemplated by this agreement, the Department and the State will take appropriate steps to inform any court in which there is pending litigation over "social services claims" of the settlement understanding and the legislation enacted by Congress and will seek dismissal of the litigation.

(5) This entire agreement is subject to the enactment of appropriate legislation by the Congress of the United States.

(6) If the legislation contemplated by this agreement is not enacted, the agreement will not be used in any way by either party to the prejudice of the rights of the other.

REGINALD D. BARNES

*Chairman, Oklahoma Public Welfare Commission,  
(For the State of Oklahoma).*

HALE CHAMPION

*(For the Department of Health, Education, and Welfare).*

Dated: October —, 1977.

OFFICE OF THE GOVERNOR,  
*Austin, Tex., October 14, 1977.*

Hon. JOSEPH A. CALIFANO, Jr.,  
*The Secretary of Health, Education, and Welfare,  
Washington, D.C.*

DEAR MR. SECRETARY: Under Texas law, the Texas Board of Human Resources, appointed by the Governor, with the advise and consent of the Senate, is responsible for the operation of the Texas Department of Human Resources. It is therefore appropriate for the Chairman to enter into a settlement on behalf of the State of Texas, with the Department of Health, Education and Welfare, for social services claims against the United States prior to October 1, 1975.

Sincerely,

DOLPH BRISCOE,  
*Governor of Texas.*

#### AGREEMENT

The Department of Health, Education, and Welfare ("Department") and the Department of Human Resources of the State of Texas ("State") agree as follows:

(1) This agreement covers claims of the State against the United States for reimbursement of expenditures made by the State prior to October 1, 1975, with respect to services (and related administrative costs) asserted by the State to have



been provided (or incurred) under a state plan pursuant to Title I, IV, VI, XI, XIV, or XVI of the Social Security Act (referred to in this agreement as "social services claims").

(2) There are presently pending unpaid "social services claims" of the State in the total amount of \$92,731,245.00 which have been deferred or disallowed or are otherwise unpaid as of the date of this agreement (these are referred to in this agreement as "unpaid claims"). In addition, the State has received and presently holds \$36,063,511.75 in federal funds representing "social services claims," the payment of which has been questioned by the Department and as to which formal steps have been initiated to recover the funds (these are referred to in this agreement as "paid claims").

(3) In order to conclude all disputes relating to the "social services claims," the Department and the State agree as follows:

(a) All pending administrative proceedings with respect to "paid claims" will be terminated. No new proceedings will be initiated with respect to "social services claims" and no further effort will be undertaken to recover any amount paid prior to April 1, 1977, or pursuant to this agreement, with respect to any "social services claims" as defined above.

(b) The State shall not be entitled to any additional reimbursement for any expenditure described in paragraph 1 above, except as provided by this agreement and by the legislation contemplated by this agreement with respect to claims not yet submitted, and the State will make no additional claim for reimbursement for such expenditures except as permitted by such legislation.

(c) All "unpaid claims" shall be settled by payment of the sum of \$33,955,935.75. The Secretary of the Department will certify this amount to the Secretary of the Treasury for payment upon request of the State following the enactment of appropriate legislation, and the determinations required of the Secretary under Section 2A (1) (i) and (ii) of such legislation have already been affirmatively made with regard to the State's claim for reimbursement under Section 1 thereof.

(4) Upon the enactment of legislation contemplated by this agreement, the Department and the State will take appropriate steps to inform any court in which there is pending litigation over "social services claims" of this agreement and the legislation enacted by Congress and will seek dismissal of the litigation.

(5) This entire agreement is subject to the enactment of appropriate legislation by the Congress of the United States, which is proposed in the form attached hereto as Exhibit "A".

(6) If the legislation contemplated by this agreement is not enacted, the agreement will not be used in any way by either party to the prejudice of the rights of the other.

(7) This agreement shall constitute an agreement under Section (4) (A) of the legislation which is contemplated by this agreement, attached hereto as Exhibit "A".

DEPARTMENT OF HUMAN RESOURCES  
OF THE STATE OF TEXAS

HILMAR MOORE,

*Chairman.*

JEROME CHAPMAN,

*Commissioner.*

HALE CHAMPION

(For the Department of Health,  
Education, and Welfare).

Approved as to form:

JOHN L. HILL,  
*Attorney General of Texas.*  
BY FRANK C. CROBY

Dated: October—, 1977.

(EXHIBIT "A")

A BILL To authorize an appropriation to reimburse certain expenditures for social services provided by the States prior to October 1, 1975, under titles I, IV, VI, X, XIV, and XVI of the Social Security Act

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (1) There are authorized to be appropriated not to exceed \$543,000,000, to remain available until expended, to enable the Secretary of Treasury to pay to any State the amount, determined by the Secretary of Health, Education, and Welfare (hereinafter in this Act referred to as "the Secretary") in accordance with paragraph (2), owed to the State as settlement*



of a claim of the State against the United States for reimbursement of expenditures made by the State prior to October 1, 1975, with respect to services (and related administrative costs) asserted by the State to have been provided (or incurred) under an approved State plan pursuant to title I, IV, VI, X, XIV, or XVI of the Social Security Act.

(2)(A) In the case of a claim by a State for reimbursement described by paragraph (1) that the Secretary determines—

(i) was asserted against the United States, in the form and manner prescribed by the Secretary with respect to the filing of claims under titles I, IV, VI, X, XIV, or XVI of the Social Security Act, prior to April 1, 1977; and

(ii) in the case of any such claim with respect to expenditures of a State after June 30, 1972, is within the allotment of the State determined in accordance with section 1130 of the Social Security Act, as added by section 301(a) of P.L. 92-512 and in effect with respect to fiscal years beginning after June 30, 1972;

the Secretary shall certify to the Secretary of the Treasury for payment to the State the sum of—

(iii) an amount equal to 38 percent of so much of the claim as does not exceed \$50,000,000;

(iv) an amount equal to 35 percent of so much of the claim as exceeds \$50,000,000 but does not exceed \$150,000,000; and

(v) an amount equal to 21 percent of so much of the claim as exceeds \$150,000,000, provided that if the total of all such unpaid claims of a State equals or exceeds 85 percent of the total of all such claims (both paid and unpaid) of that State, the percentage specified in clause (iii) above shall be 58 percent and the percentage specified in subparagraph (iv) above shall be 50 percent.

(B)(i) In the case of a claim by a State for reimbursement described by paragraph (1) that the Secretary determines meets the requirements of clauses (i) and (ii) of subparagraph (A) of this paragraph, except that the claim was asserted, in the form and manner prescribed by the Secretary, on or after April 1, 1977, but prior to the ninety-first day following the date upon which this Act is enacted, the Secretary shall certify to the Secretary of the Treasury for payment to the State, subject to clause (ii) of this subparagraph, an amount equal to 15 percent of so much of that claim as he finds to be for the provision of services that he finds the State provided and for which he has not provided reimbursement, but for which reimbursement was available under titles I, IV, VI, X, XIV, or XVI of the Social Security Act prior to April 1, 1977, or, if not services for which reimbursement was available, are services of a similar kind, and are not otherwise reimbursable under this Act.

(ii) The Secretary may not certify for payment to any State under the authority of this subparagraph an amount that exceeds 5 percent of that State's allotment for fiscal year 1973 of social service funds under titles I, IV-A, X, XIV, and XVI of the Social Security Act, as determined in accordance with section 1130(g) of such Act, less the amount certified for payment to the State under subparagraph (A) of this paragraph.

(iii) The Secretary shall have no authority, by regulations or otherwise, to extend the time period specified in clause (i) of this subparagraph or to waive the time limit for assertion of a claim.

(3)(A) Except with respect to amounts paid by the Secretary to a State prior to April 1, 1977, no State is entitled to reimbursement of expenditures described by paragraph (1) except as provided by this Act.

(B) Neither the Secretary nor any other official of the federal government may seek to recover any amount paid to a State prior to April 1, 1977, or pursuant to this Act, with respect to a claim of the State described by paragraph (1).

(4)(A) The Secretary is authorized to enter into agreements with any State in accordance with the provisions of this Act, and agreements entered into prior to the enactment of this Act, to the extent not inconsistent with the terms hereof, shall have the same force and effect as agreements entered into subsequent to enactment of this Act.

(B) In the absence of an agreement, a State dissatisfied with a determination by the Secretary under this Act may, by application to the Secretary within 60 days after the date of notice to the State of that determination, obtain the Secretary's review of that determination. If the application requests a hearing, the Secretary shall conduct a hearing after reasonable notice to the State, and shall, on the basis of evidence adduced at the hearing, affirm, modify, or reverse his determination.



If the Secretary does not preside at the reception of the evidence at the hearing, the decision of the presiding official or body shall be the decision of the Secretary.

(C) No court of the United States has jurisdiction to entertain any action seeking the review of any determination or finding of the Secretary under this Act, or otherwise seeking to compel a determination by the Secretary to certify for payment any claim described by paragraph (1), provided, however, that this provision shall not apply to any action seeking enforcement of an agreement of the kind referred to in subparagraph (A) of this paragraph.

(5) (A) Amounts appropriated under paragraph (1) shall be first applied in settlement of the claims described in subparagraph (A) of paragraph (2). If, after that payment, the amounts remaining are insufficient to pay the amounts established by subparagraph (B) of paragraph (2) with respect to claims asserted under that subparagraph, the Secretary shall certify for payment with respect to each claim under that subparagraph an amount that bears the same relationship to that claim as the total of such remaining available amounts bears to the total of all claims asserted under that subparagraph.

(B) A reduction effected by subparagraph (A) of this paragraph in the amount payable to a State under paragraph (2) (B) does not give rise to an entitlement in the State to the difference between the amount payable under paragraph (2) (B) (without regard to subparagraph (A) of this paragraph) and the amount payable under paragraph (2) (B) after application of subparagraph (A) of this paragraph.

(C) In the event that the amount appropriated under paragraph (1) exceeds the payable claims under subparagraph (A) and (B) of paragraph (2), the excess shall be available to make further payment on claims under subparagraph (A) of paragraph (2) and for this purpose only the percentage figure in subparagraph (A) (v) of paragraph (2) shall be deemed to be 25 percent.

(6) The Secretary of the Treasury shall pay to each State all amounts certified by the Secretary as payable to that State pursuant to the terms of this Act.

#### CERTIFICATION

I, Jerome Chapman, Commissioner of the Texas Department of Human Resources, State of Texas, hereby certify that the social services claims of the State of Texas that are the subject of a settlement agreement with the United States Department of Health, Education, and Welfare are comprised of the following expenditures:

#### FEDERAL FINANCIAL PARTICIPATION CLAIMED

| Fiscal year claims <sup>1</sup>          | Purchase agreements with other State agencies <sup>2</sup> | Individual providers and direct delivery |
|------------------------------------------|------------------------------------------------------------|------------------------------------------|
| July 1971-March 1972.....                | \$92,731,245.00                                            | \$12,837,862.70                          |
| April-June 1972.....                     | 36,065,512.00                                              | 6,010,725.90                             |
| July-September 1972.....                 | 17,113,869.79                                              | 6,354,679.08                             |
| October-December 1972.....               | 10,269,115.34                                              | 7,712,991.48                             |
| January-March 1973.....                  | 10,195,485.25                                              | 7,251,553.60                             |
| April-June 1973.....                     | 11,227,601.26                                              | 9,649,252.41                             |
| July-September 1973.....                 | 9,145,500.25                                               | 8,477,494.76                             |
| October-December 1973.....               | 13,698,243.46                                              | 8,542,854.56                             |
| January-March 1974.....                  | 14,065,505.72                                              | 11,828,900.98                            |
| April-June 1974.....                     | 13,999,006.70                                              | 15,446,520.33                            |
| July-September 1974.....                 | 12,298,720.22                                              | 14,493,471.40                            |
| October-December 1974.....               | 20,191,501.94                                              | 19,326,303.81                            |
| January-March 1975.....                  | 22,006,878.36                                              | 23,474,046.63                            |
| April-June 1975.....                     | 19,382,951.51                                              | 27,679,674.13                            |
| July-September 1975.....                 | 17,419,160.25                                              | 29,697,026.37                            |
| October-December 1975 <sup>3</sup> ..... |                                                            | 9,725,606.00                             |
| January-March 1976 <sup>3</sup> .....    |                                                            | 2,721,823.00                             |
| Total.....                               | 319,810,297.05                                             | 221,230,787.19                           |

<sup>1</sup> All claims, with the exception of purchase agreements with other State agencies, for July 1971 through March 1972 are paid.

<sup>2</sup> Attachment 1 outlines claims of individual State agency agreements.

<sup>3</sup> Encumbered prior to October 1975 as title IV-A program costs, but paid during quarter shown.

To the best of my knowledge and belief, each of these expenditures is evidenced by appropriate accounting or fiscal records of the State of Texas and represents expenditures actually incurred. Supporting documentation showing the method for calculating the amount of the claims is available in the possession of the State.

JEROME CHAPMAN, *Commissioner*.

Dated: October 14, 1977.



## Individual State Agency Claims

| <i>Fiscal year claims</i>                                 |       | <i>Federal financial participation claimed</i> |
|-----------------------------------------------------------|-------|------------------------------------------------|
| Texas education agency claims:                            |       |                                                |
| July 1971 through March 1972                              | ----- | \$59,844,550.00                                |
| April 1972 through June 1972                              | ----- | 21,506,291.00                                  |
| July 1972 through September 1972                          | ----- | 8,870,118.71                                   |
| October 1972 through December 1972                        | ----- | 5,322,482.48                                   |
| January 1973 through March 1973                           | ----- | 5,284,320.00                                   |
| April 1973 through June 1973                              | ----- | 5,819,265.74                                   |
| July 1973 through September 1973                          | ----- | 1,952,329.66                                   |
| October 1973 through December 1973                        | ----- | 5,856,988.96                                   |
| January 1974 through March 1974                           | ----- | 5,856,988.97                                   |
| April 1974 through June 1974                              | ----- | 5,909,277.20                                   |
| July 1974 through September 1974                          | ----- | 3,872,320.99                                   |
| October 1974 through December 1974                        | ----- | 11,508,004.99                                  |
| January 1975 through March 1975                           | ----- | 11,508,004.99                                  |
| April 1975 through June 1975                              | ----- | 11,508,004.99                                  |
| July 1975 through September 1975                          | ----- | 9,544,604.25                                   |
| Total                                                     | ----- | 174,163,552.93                                 |
| <i>Fiscal year claims</i>                                 |       |                                                |
| Texas Department of Mental Health and Mental Retardation: |       |                                                |
| July 1971 through March 1972                              | ----- | 25,959,636.00                                  |
| April 1972 through June 1972                              | ----- | 11,878,726.00                                  |
| July 1972 through September 1972                          | ----- | 7,600,269.57                                   |
| October 1972 through December 1972                        | ----- | 4,560,514.12                                   |
| January 1973 through March 1973                           | ----- | 4,527,815.00                                   |
| April 1973 through June 1973                              | ----- | 4,986,177.72                                   |
| July 1973 through September 1973                          | ----- | 7,193,170.59                                   |
| October 1973 through December 1973                        | ----- | 7,841,254.50                                   |
| January 1974 through March 1974                           | ----- | 8,208,516.75                                   |
| April 1974 through June 1974                              | ----- | 8,089,729.50                                   |
| July 1974 through September 1974                          | ----- | 8,426,399.23                                   |
| October 1974 through December 1974                        | ----- | 8,683,496.95                                   |
| January 1975 through March 1975                           | ----- | 10,498,873.37                                  |
| April 1975 through June 1975                              | ----- | 7,874,946.52                                   |
| July 1975 through September 1975                          | ----- | 7,874,556.00                                   |
| Total                                                     | ----- | 134,204,081.82                                 |
| <i>Fiscal year claims</i>                                 |       |                                                |
| Texas Department of Corrections:                          |       |                                                |
| July 1971 through March 1972                              | ----- | 213,027.00                                     |
| April 1972 through June 1972                              | ----- | 57,155.00                                      |
| July 1972 through September 1972                          | ----- | 17,113.87                                      |
| October 1972 through December 1972                        | ----- | 10,269.12                                      |
| January 1973 through March 1973                           | ----- | 10,195.48                                      |
| April 1973 through June 1973                              | ----- | 11,227.60                                      |
| Total                                                     | ----- | 318,988.07                                     |
| Texas State Department of Health:                         |       |                                                |
| July 1971 through March 1972                              | ----- | 4,550,100.00                                   |
| April 1972 through June 1972                              | ----- | 1,851,154.00                                   |
| July 1972 through September 1972                          | ----- | 465,497.26                                     |
| October 1972 through December 1972                        | ----- | 279,319.94                                     |
| January 1973 through March 1973                           | ----- | 277,317.20                                     |
| April 1973 through June 1973                              | ----- | 305,390.76                                     |
| Total                                                     | ----- | 7,728,779.16                                   |



|                                               |       |                                                    |
|-----------------------------------------------|-------|----------------------------------------------------|
|                                               |       | <i>Federal financial<br/>participation claimed</i> |
| <b>Texas Youth Council:</b>                   |       |                                                    |
| July 1971 through March 1972                  | ----- | \$764, 592. 00                                     |
| April 1972 through June 1972                  | ----- | 258, 319. 00                                       |
| Total                                         | ----- | <u>1, 022, 911. 00</u>                             |
| <b>Board of Pardons and Paroles:</b>          |       |                                                    |
| July 1971 through March 1972                  | ----- | 630, 133. 00                                       |
| April 1972 through June 1972                  | ----- | 210, 044. 00                                       |
| July 1972 through September 1972              | ----- | 59, 898. 55                                        |
| October 1972 through December 1972            | ----- | 35, 941. 90                                        |
| January 1973 through March 1973               | ----- | 35, 684. 20                                        |
| April 1973 through June 1973                  | ----- | 39, 296. 60                                        |
| Total                                         | ----- | <u>1, 010, 998. 25</u>                             |
| <b>University of Texas System:</b>            |       |                                                    |
| July 1971 through March 1972                  | ----- | 518, 605. 00                                       |
| April 1972 through June 1972                  | ----- | 172, 869. 00                                       |
| July 1972 through September 1972              | ----- | 46, 207. 45                                        |
| October 1972 through December 1972            | ----- | 27, 726. 61                                        |
| January 1973 through March 1973               | ----- | 27, 527. 81                                        |
| April 1973 through June 1973                  | ----- | 30, 314. 52                                        |
| Total                                         | ----- | <u>823, 250. 39</u>                                |
| <b>Texas Department of Community Affairs:</b> |       |                                                    |
| July 1971 through March 1972                  | ----- | 38, 378. 00                                        |
| April 1972 through June 1972                  | ----- | 4, 739. 00                                         |
| July 1972 through September 1972              | ----- | 5, 134. 16                                         |
| October 1972 through December 1972            | ----- | 3, 080. 74                                         |
| January 1973 through March 1973               | ----- | 3, 058. 65                                         |
| April 1973 through June 1973                  | ----- | 3, 368. 28                                         |
| Total                                         | ----- | <u>57, 758. 83</u>                                 |
| <b>Texas Commission on Alcoholism:</b>        |       |                                                    |
| July 1971 through March 1972                  | ----- | 189, 881. 00                                       |
| April 1972 through June 1972                  | ----- | 99, 933. 00                                        |
| July 1972 through September 1972              | ----- | 25, 670. 81                                        |
| October 1972 through December 1972            | ----- | 15, 403. 67                                        |
| January 1973 through March 1973               | ----- | 15, 293. 23                                        |
| April 1973 through June 1973                  | ----- | 16, 841. 40                                        |
| Total                                         | ----- | <u>363, 023. 11</u>                                |
| <b>Office of Information Services:</b>        |       |                                                    |
| April 1972 through June 1972                  | ----- | 18, 542. 00                                        |
| July 1972 through September 1972              | ----- | 20, 536. 64                                        |
| October 1972 through December 1972            | ----- | 12, 322. 94                                        |
| January 1973 through March 1973               | ----- | 12, 234. 58                                        |
| April 1973 through June 1973                  | ----- | 13, 473. 12                                        |
| Total                                         | ----- | <u>77, 109. 28</u>                                 |
| <b>Good Neighbor Commission:</b>              |       |                                                    |
| July 1971 through March 1972                  | ----- | 22, 343. 00                                        |
| April 1972 through June 1972                  | ----- | 7, 740. 00                                         |
| July 1972 through September 1972              | ----- | 3, 422. 77                                         |
| October 1972 through December 1972            | ----- | 2, 053. 82                                         |
| January 1973 through March 1973               | ----- | 2, 039. 10                                         |
| April 1973 through June 1973                  | ----- | 2, 245. 52                                         |
| Total                                         | ----- | <u>39, 844. 21</u>                                 |



## AGREEMENT

The Department of Health, Education, and Welfare ("Department") and the State of Washington ("State") agree as follows:

(1) This agreement covers claims of the State against the United States for reimbursement of expenditures made by the State prior to October 1, 1975, with respect to services (and related administrative costs) asserted by the State to have been provided (or incurred) under a state plan pursuant to Title I, IV, VI, X, XIV, or XVI of the Social Security Act (referred to in this agreement as "social services claims").

(2) There are presently pending unpaid "social services claims" of the State in the total amount of \$32,876,908.00 which have been deferred or disallowed or are otherwise unpaid as of the date of this agreement (these are referred to in this agreement as "unpaid claims"). In addition, the State has received and presently holds \$5,581,294.00 in federal funds representing "social services claims," the payment of which has been questioned by the Department and as to which formal steps have been initiated to recover the funds (these are referred to in this agreement as "paid claims").

(3) In order to conclude all disputes relating to the "social services claims," the Department and the State agree as follows:

(a) All pending administrative proceedings with respect to "paid claims" will be terminated. No new proceedings will be initiated with respect to "social services claims" and no further effort will be undertaken to recover any amount paid prior to April 1, 1977, or pursuant to this agreement, with respect to any "social services claims" as defined above.

(b) The State shall not be entitled to any additional reimbursement for any expenditure described in paragraph 1 above, except as provided by this agreement and by the legislation contemplated by this agreement with respect to claims not yet submitted, and the State will make no additional claim for reimbursement for such expenditures except as permitted by such legislation.

(c) All "unpaid claims" shall be settled by payment of the sum of \$19,068,606.64. The Secretary of the Department will certify this amount to the Secretary of the Treasury for payment upon request of the State following the enactment of appropriate legislation.

(4) Upon the enactment of legislation contemplated by this agreement, the Department and the State will take appropriate steps to inform any court in which there is pending litigation over "social services claims" of this agreement and the legislation enacted by Congress and will seek dismissal of the litigation.

(5) This entire agreement is subject to the enactment of appropriate legislation by the Congress of the United States.

(6) If the legislation contemplated by this agreement is not enacted, the agreement will not be used in any way by either party to the prejudice of the rights of the other.

(For the State of Washington).

HALE CHAMPION,

(For the Department of Health, Education, and Welfare).

Dated: October —, 1977.

I, Carroll S. Dick, am currently Director, Administrative Services Division, State of Washington, Department of Social and Health Services. During the period April 1, 1971 through June 30, 1972, my position was Acting Chief, Office of Fiscal Services, and in that capacity I was the chief fiscal officer for the Department of Social and Health Services.

Therefore, I, Carroll S. Dick, do hereby certify that the Washington Department of Social and Health Services, during the period referred to above, did expend \$100,986,463.82 in its Social Services program authorized under Titles I, IV-A, X, and XIV of the Social Security Act for which it did not receive full federal financial participation; that on October 20, 1972, the Washington Department of Social and Health Services filed a claim against the Department of Health, Education, and Welfare in the amount of \$32,876,908 for Federal financial participation in the Social Services program so authorized for the period April 1, 1971 through June 30, 1972; and that such claim has not as of this date been paid.

CARROLL S. DICK.

Dated: October 7, 1977.



## CERTIFICATION

I, Carroll S. Dick, Director, Administrative Services, and Chief Fiscal Officer of the Department of Social & Health Services, State of Washington, hereby certify that the social services claims of the State of Washington that are the subject of a settlement agreement with the United States Department of Health, Education, and Welfare are comprised of the following expenditures:

Federal share of adjustments increasing claims for expenditures (period, April 1, 1971 to June 30, 1972), \$32,876,908.

To the best of my knowledge and belief, each of these expenditures is evidenced by appropriate accounting or fiscal records of the State of Washington and represents expenditures actually incurred. Supporting documentation showing the method for calculating the amount of the claims is available in the possession of the State.

CARROLL S. DICK.

## WASHINGTON STATE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—SOCIAL SERVICES

[Period Apr. 1, 1971, to June 30, 1972]

|                                                                                                                | AFDC-75    | ADULT-75   | Total      |
|----------------------------------------------------------------------------------------------------------------|------------|------------|------------|
| Federal share of adjustments:                                                                                  |            |            |            |
| (1) Amount due to previous recognition of maintenance of State effort: Apr. 1, 1971, to June 30, 1972 .....    | 11,521,423 | 5,964,051  | 17,485,474 |
| (2) Mental hospitals, schools for mentally retarded, and veterans' homes: Apr. 1, 1971, to June 30, 1972 ..... | 2,916,547  | 12,315,619 | 15,232,166 |
| (3) Community services and other: Quarters ended Mar. 31, and June 30, 1972 .....                              | 131,324    | 27,944     | 159,268    |
| Total .....                                                                                                    | 14,569,294 | 18,307,614 | 32,876,908 |

## AGREEMENT

The Department of Health, Education, and Welfare ("Department") and the State of Wisconsin ("State") agree as follows:

(1) This agreement covers claims of the State against the United States for reimbursement of expenditures made by the State prior to October 1, 1975, with respect to services (and related administrative costs) asserted by the State to have been provided (or incurred) under a state plan pursuant to Title I, IV, VI, X, XIV, or XVI of the Social Security Act (referred to in this agreement as "social services claims").

(2) There are presently pending unpaid "social services claims" of the State in the total amount of \$65,008,158.00 which have been deferred or disallowed or are otherwise unpaid as of the date of this agreement (these are referred to in this agreement as "unpaid claims"). In addition, the State has received and presently holds \$6,392,091.00 in federal funds representing "social services claims," the payment of which has been questioned by the Department and as to which formal steps have been initiated to recover the funds (these are referred to in this agreement as "paid claims").

(3) In order to conclude all disputes relating to the "social services claims," the Department and the State agree as follows:

(a) All pending administrative proceedings with respect to "paid claims" will be terminated. No new proceedings will be initiated with respect to "social services claims" and no further effort will be undertaken to recover any amount paid prior to April 1, 1977, or pursuant to this agreement, with respect to any "social services claims" as defined above.

(b) The State shall not be entitled to any additional reimbursement for any expenditure described in paragraph 1 above, except as provided by this agreement and by the legislation contemplated by this agreement with respect to claims not yet submitted, and the State will make no additional claim for reimbursement for such expenditures except as permitted by such legislation.

(c) All "unpaid claims" shall be settled by payment of the sum of \$36,504,709.00. The Secretary of the Department will certify this amount to the Secretary of the Treasury for payment upon request of the State following the enactment of appropriate legislation.

(4) Upon the enactment of legislation contemplated by this agreement, the Department and the State will take appropriate steps to inform any court in which there is pending litigation over "social services claims" of this agreement and the legislation enacted by Congress and will seek dismissal of the litigation.



(5) This entire agreement is subject to the enactment of appropriate legislation by the Congress of the United States.

(6) If the legislation contemplated by this agreement is not enacted, the agreement will not be used in any way by either party to the prejudice of the rights of the other.

MARTIN SCHREIBER,  
(For the State of Wisconsin).

HALE CHAMPION,

(For the Department of Health, Education, and Welfare).

Dated: October 11, 1977.

#### CERTIFICATION

I, Donald E. Percy, Secretary of the Department of Health and Social Services, State of Wisconsin, hereby certify that the social services claims of the State of Wisconsin that are the subject of a settlement agreement with the United States Department of Health, Education, and Welfare are comprised of the following expenditures:

|                                  | Period of expenditure                | Reconsideration No. | Amount            |
|----------------------------------|--------------------------------------|---------------------|-------------------|
| <b>Unpaid expenditure:</b>       |                                      |                     |                   |
| Community mental health clinics  | July 1, 1969, through Sept. 30, 1972 | SS-WI-7201          | \$11,706,000      |
| State mental health institutes   | Apr. 1, 1971, through Sept. 30, 1972 | SS-WI-7201          | 13,320,000        |
| County mental hospitals          | do                                   | SS-WI-7201          | 22,672,000        |
| Juvenile correctional facilities | Apr. 1, 1969, through Sept. 30, 1972 | SS-WI-7201          | 12,693,000        |
| Do                               | Oct. 1, 1972, through March 31, 1975 | SS-WI-7206          | 4,396,864         |
| Arthur Young contract            | July 1, 1972, through March 31, 1973 | SS-WI-7701          | 220,294           |
| <b>Total</b>                     |                                      |                     | <b>65,008,158</b> |
| <b>Paid expenditure:</b>         |                                      |                     |                   |
| Child caring institutions        | Sept. 1, 1972, through June 30, 1973 | SS-WI-7701          | 3,442,368         |
| Group home subsidies             | July 1, 1970, through Dec. 31, 1973  | SS-WI-7701          | 1,619,826         |
| Do                               | July 1, 1973, through Mar. 31, 1973  | SS-WI-7601          | 1,329,897         |
| <b>Total</b>                     |                                      |                     | <b>6,392,091</b>  |

To the best of my knowledge and belief, each of these expenditures is evidenced by appropriate accounting or fiscal records of the State of Wisconsin and represents expenditures actually incurred. Supporting documentation showing the method for calculating the amount of the claims is available in the possession of the State.

DONALD E. PERCY,  
*Secretary.*

Dated: October 10, 1977.

#### SOCIAL SERVICES CLAIMS AT ISSUE<sup>1</sup>

|                      | Total claims | Paid claims                        |                                     | Unpaid claims <sup>2</sup>         |                                           |
|----------------------|--------------|------------------------------------|-------------------------------------|------------------------------------|-------------------------------------------|
|                      |              | Expenditures prior to July 1, 1972 | Expenditures July 1- Sept. 30, 1972 | Expenditures prior to July 1, 1972 | Expenditures July 1, 1972- Sept. 30, 1975 |
| Alabama              | \$1,032,650  |                                    | \$1,032,650                         |                                    |                                           |
| Alaska               | 705,873      | \$410,035                          | 295,838                             |                                    |                                           |
| Arizona              | 5,200,420    | 3,867,998                          | 1,332,422                           |                                    |                                           |
| Arkansas             | 3,835,883    |                                    |                                     | \$3,835,883                        |                                           |
| California           | 1,487,517    | 623,131                            | 864,386                             |                                    |                                           |
| Colorado             |              |                                    |                                     |                                    |                                           |
| Connecticut          | 44,240,447   |                                    | 6,016,693                           | 29,637,793                         | \$8,585,961                               |
| Delaware             |              |                                    |                                     |                                    |                                           |
| District of Columbia |              |                                    |                                     |                                    |                                           |
| Florida              | 57,837,340   | 24,945,376                         | 4,157,562                           |                                    | 28,734,402                                |
| Georgia              | 6,727,727    |                                    | 6,072,025                           |                                    | 655,702                                   |
| Guam                 |              |                                    |                                     |                                    |                                           |
| Hawaii               |              |                                    |                                     |                                    |                                           |
| Idaho                | 1,696,704    |                                    |                                     | 459,654                            | 1,237,050                                 |
| Illinois             | 275,728,860  | 87,342,279                         | 101,090,847                         | 10,178,944                         | 77,116,130                                |
| Indiana              |              |                                    |                                     |                                    |                                           |
| Iowa                 |              |                                    |                                     |                                    |                                           |
| Kansas               | 2,358,983    |                                    | 2,358,983                           |                                    |                                           |
| Kentucky             | 16,680,546   | 16,579,546                         | 101,000                             |                                    |                                           |
| Louisiana            | 2,198,997    |                                    |                                     | 2,198,997                          |                                           |
| Maine                |              |                                    |                                     |                                    |                                           |

See footnotes at end of table.



SOCIAL SERVICES CLAIMS AT ISSUE<sup>1</sup>

|                | Total claims  | Paid claims                        |                                    | Unpaid claims <sup>2</sup>         |                                          |
|----------------|---------------|------------------------------------|------------------------------------|------------------------------------|------------------------------------------|
|                |               | Expenditures prior to July 1, 1972 | Expenditures July 1-Sept. 30, 1972 | Expenditures prior to July 1, 1972 | Expenditures July 1, 1972-Sept. 30, 1975 |
| Ma yland       | \$24,753,829  |                                    |                                    | \$13,814,441                       | \$10,939,388                             |
| Massachusetts  | 142,407,431   | \$235,782                          | \$674,925                          | 49,170,111                         | 92,326,613                               |
| Michigan       | 65,474,623    |                                    | 8,389,112                          | 35,687,268                         | 21,398,243                               |
| Minnesota      | 47,344,176    |                                    |                                    | * 47,344,176                       |                                          |
| Mississippi    |               |                                    |                                    |                                    |                                          |
| Missouri       | 188,089       | 141,066                            | 47,023                             |                                    |                                          |
| Montana        |               |                                    |                                    |                                    |                                          |
| Nebraska       |               |                                    |                                    |                                    |                                          |
| Nevada         |               |                                    |                                    |                                    |                                          |
| New Hampshire  |               |                                    |                                    |                                    |                                          |
| New Jersey     | 1,270,813     |                                    |                                    |                                    | 1,270,813                                |
| New Mexico     |               |                                    |                                    |                                    |                                          |
| New York       | 1,404,704,575 | 490,787,804                        |                                    | 913,916,771                        |                                          |
| North Carolina |               |                                    |                                    |                                    |                                          |
| North Dakota   |               |                                    |                                    |                                    |                                          |
| Ohio           | 20,060,807    |                                    | 4,949,402                          |                                    | 15,111,405                               |
| Oklahoma       | 13,837,400    | 4,361,321                          | 9,476,079                          |                                    |                                          |
| Oregon         |               |                                    |                                    |                                    |                                          |
| Pennsylvania   | 6,967,301     |                                    | 2,816,506                          |                                    | 4,150,795                                |
| Puerto Rico    |               |                                    |                                    |                                    |                                          |
| Rhode Island   | 1,235,891     | 930,260                            | 290,097                            | 15,594                             |                                          |
| South Carolina |               |                                    |                                    |                                    |                                          |
| South Dakota   |               |                                    |                                    |                                    |                                          |
| Tennessee      | 482,979       |                                    | 479,089                            |                                    | 3,890                                    |
| Texas          | 128,796,756   | 34,771,647                         |                                    | 94,025,109                         |                                          |
| Utah           |               |                                    |                                    |                                    |                                          |
| Vermont        |               |                                    |                                    |                                    |                                          |
| Virgin Islands |               |                                    |                                    |                                    |                                          |
| Virginia       |               |                                    |                                    |                                    |                                          |
| Washington     | 38,458,202    | 5,581,294                          |                                    | 32,876,909                         |                                          |
| West Virginia  |               |                                    |                                    |                                    |                                          |
| Wisconsin      | 71,037,979    | 810,113                            | 5,440,002                          | 52,456,482                         | 12,331,382                               |
| Wyoming        |               |                                    |                                    |                                    |                                          |
| Total          | 2,386,752,798 | 671,388,042                        | 155,884,641                        | 1,285,618,131                      | 273,861,984                              |

<sup>1</sup> Excludes title XX.<sup>2</sup> Does not include amounts over allotment limits set forth in sec. 1130 of Social Security Act.<sup>3</sup> While we believe the large majority of this claim to be for the pre-June 1972 period, there may be some amounts attributable to the period after June 30, 1972.

Note: The amounts contained in the agreements between the Department and the States may be slightly different than those in this chart because of technical adjustments made after the compilation of the chart.

We wish to impress upon the Subcommittee that *all* States, regardless of whether they are to receive payments under the settlement bill, have received Federal funds for the operation of their social service programs. The paid claims listed above identify only those which the Department has questioned and which remain unresolved. Since 1962, the Department disbursed in excess of \$12 billion for States' social service programs prior to the enactment of title XX. Of this amount there is an indefinite portion that, in the absence of the settlement bill, would be subject to audit and repayment to the Federal government. Thus, while some States are not to receive payments under this bill, they have a considerable interest in insuring that funds already received by them will no longer be subject to question and potential recoupment.

## TIME PERIODS FOR FILING CLAIMS

A question was raised by the Subcommittee as to the time that elapses between the point when a State incurs an expenditure and the point at which the State requests the Department to reimburse that expenditure. While the Department has required States to submit quarterly expenditure reports within thirty days of the immediately preceding quarter, the common practice is to have such reports submitted between forty-five and sixty days after the close of the quarter. At times, because of the magnitude of State programs, States may not identify an expenditure billable to the Department for a year after the expenditure was originally incurred.

In isolated instances, as in the case of the States' "retroactive social service claims", there have been examples of States submitting claims for expenditures incurred as much as four years prior to the request for Federal reimbursement.



## PURCHASE OF SOCIAL SERVICES BY STATES FROM PUBLIC VERSUS PRIVATE AGENCIES

A concern was voiced by the Subcommittee that much of the funds claimed by States under the old social service titles to the Social Security Act might have been directed for use by private agencies or individuals under contract with the State welfare agency. After an examination of our records, we have determined that of the \$2.4 billion in dispute between the Department and the States, only the most minute amount is attributable to services rendered by private agencies. As far as we are able to determine, State agencies contracted with private agencies for the provision of approximately \$8 million in services nationwide, or, about two-tenths of one percent of total amounts expended.

DEPARTMENT OF JUSTICE,  
Washington, D.C., March 7, 1978.

HON. PETER W. RODINO, Jr.,  
*Chairman, Committee on the Judiciary, House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Justice on HR 10101, a bill "To authorize an appropriation to reimburse certain expenditures for social services provided by the States prior to October 1, 1975, under Titles I, IV, VI, X, XIV, and XVI of the Social Security Act."

This bill would authorize reimbursement to the States for the costs of certain "social services" rendered to their citizens prior to October 1, 1975 with the expectation of federal reimbursement under the Social Security Act. The proposed bill authorizes \$543,000,000 to be appropriated and to remain available until expended in settlement of various claims by the States for expenditures incurred under Titles I, IV, VI, X, XIV, and XVI of the Social Security Act. These public assistance titles of the Social Security Act (now superseded by Title XX) authorize the establishment of cooperative federal-State welfare programs to assist needy people who qualify for assistance under the Act. These titles deal with aid to families with dependent children and a combination program with aid to the aging, blind, and disabled. The Act provides for cash assistance as well as assistance in the form of social services, e.g., counseling, family planning, and child care, and help needy people obtain or retain the capability for self-support to reduce their dependency. States welfare agencies may either provide these services themselves or they may purchase them from other States agencies in accordance with prescribed conditions. To receive federal payment for purchased services, a State must show that the social services activities were actually being provided as part of the federally-assisted welfare programs under a State plan approved by HEW as of the time for which federal reimbursement is claimed, and that valid purchase of services agreements were in effect at the time the services were rendered under the public assistance program.

The bill would provide for the reimbursement of certain State claims which were submitted to HEW for payment, but which were rejected because the State authority had failed to satisfy the various criteria for payment under the statute and HEW regulations. The claims of some 22 States are now in litigation. The aggregate amount sought by these claimants easily exceeds one billion dollars. The proposed bill would settle the claims in litigation as well as any outstanding claims that could be made by other States. For those States filing claims with HEW prior to April 1, 1977, the State would receive 38 per cent of its claim that does not exceed 50 million dollars, 35 per cent of the claim between 50 million dollars and 150 million dollars, and 21 per cent of the remainder of the claim. Those States which did not assert an administrative claim prior to April 1, 1977 would have 90 days from the date of enactment to do so, and would be reimbursed for 15 per cent of their claims. The amounts to be paid each State may be determined by the Secretary and the claimant State jointly by agreement, but if a State is dissatisfied with the amount determined, the Secretary must conduct a hearing to determine the reimburseable amount. The bill provides that such determinations or findings by the Secretary for amounts payable are not reviewable by the courts. However, the appropriate district court does have jurisdiction to enforce an agreement providing for the payment of a specific amount. There are other provisions of the proposed bill for priority consideration of claims previously made in the event that the amount authorized to be appropriated is insufficient to pay all claims.

This bill implements provisions for the settlement of outstanding claims for social services reimbursement that were reached through extensive negotiation between HEW and the claimant States.



This bill would expand entitlement to social services claims by the States for services rendered prior to October 1, 1975 but would not amend the current criteria for payment of these claims under the revised titles of the Social Security Act currently in effect as Title XX.

Review of a State claim for federal reimbursement of the cost of purchased social services is a complex matter. The following criteria must be evaluated by HEW:

(1) The State public assistance plan must describe the services to be provided. See 42 U.S.C. §§602(a)(13), 603(a)(3), 1382(a)(10), 1383(a)(4), 42 C.F.R. §§220.6(a), 222.85, 226.2. Federal reimbursement for a service, whether purchased or provided directly by the State public assistance agency, may not be provided until after the State plan provision applicable to that service has been approved, and then only to the extent that the State plan provisions have been placed into operation on a statewide basis. See 42 C.F.R. §201.3(g).

(2) The State plan must specifically identify the services which may be purchased from other agencies. See 45 C.F.R. §226.1(a)(1).

(3) There must be valid purchase agreements in existence prior to the rendering of social services under that agreement. See 45 C.F.R. §226.

(4) The expenditures that comprise the State's claims must be reimbursable under the requirements for Federal Financial Participation, that is, they must be statutorily allowable costs. See 45 C.F.R. §§220.60, 222.85.

(5) Federal Financial Participation is not authorized if such services were previously available from provider agencies without costs, and therefore "otherwise reasonably available to individuals in need of them," 42 U.S.C. §603(a)(3)(D); 45 C.F.R. §§220.61(c)(2); 222.87(b).

Thus, this statutory scheme authorizes federal matching only for certain defined State expenditures, and the Secretary has a responsibility to insure that reimbursement is proper by utilizing various tools given him by the Act with which to make such determination. Under the statute, the Secretary need not accept a State's estimate or report as the amount to which the State is entitled, nor must the Secretary accept the expenditures claimed by the State as the final determination of federal reimbursement to be paid the State. The Secretary is authorized to review and examine all State claims, be they claims for current operating expenses or claims for retroactive payments which the State submits for expenditures made in past fiscal quarters. Generally speaking, the claims in litigation that would be settled by the bill were submitted retroactively for reimbursement of past fiscal quarters. Each of these claims is based upon potentially hundreds of component parts, and the prospect of litigating the reimbursability of each component part of social services claims submitted by each state is indeed awesome.

While it is possible that many of the claims submitted do not technically qualify for reimbursement, we favor congressional settlement of these retroactive claims by the proposed bill in consideration of our exposure in excess of one billion dollars and the circumstances under which these claims have arisen. It is significant that reimbursement, while not technically supportable by the statute, would pay for welfare costs actually incurred by the States. The settlement would also relieve the Department of Justice and HEW of enormous litigation difficulties, including years of discovery and trial preparation. Finally, we must recognize that full discovery might well disclose a significant portion of the claims in litigation that would justify reimbursement.

The Department of Justice recommends enactment of this legislation.

The Office of Management and Budget has advised that there is no objection to the submission of this report and enactment of H.R. 10101 would be consistent with the Administration's objectives.

Sincerely,

PATRICIA M. WALD,  
Assistant Attorney General.



STATEMENT OF REPRESENTATIVE JIM WRIGHT, MAJORITY  
LEADER, U.S. HOUSE OF REPRESENTATIVES

"Blessed are the peacemakers," it says in the Bible, and that is what the members of the subcommittee are today as you undertake legislation to settle a dispute that has been going on between the Department of Health, Education and Welfare and 19 of the states for at least 5 years.

Members are already familiar with the controversy that has attended—over the years—the matter of reimbursement by the federal government to the states for various services that the states provide to public assistance families. Because the regulations governing that reimbursement have changed several times in the past few years, there now stands in dispute between the government and 19 of the states a sum greater than one billion dollars.

Some of this represents funds that states claim the Department of HEW owes them. Some represents payments HEW has made to the states but which it now says should not have been paid. Those payments HEW wants the states to give back.

It has been a rancorous controversy—one that has spawned a number of lawsuits that could go on for years before being fully resolved.

Now, however, the Department of Health, Education and Welfare, in negotiation with the states, has arrived at a formula to settle *all* the claims currently in dispute up to October 1, 1975, by means of payments in the amount of \$543 million—the sum authorized by the bill members of the Subcommittee are now considering—H.R. 10101.

It should be stressed first that, in case the federal government should lose in these court cases stemming from the social services reimbursement dispute, it could be liable for substantially greater payments to the states than this bill authorizes. So although \$543 million is far from being a small sum, it potentially represents that much more again in savings to the government. This is one of the reasons that the Department of HEW has itself advanced in support of the bill.

The states, too, have pronounced themselves satisfied with the settlement that HR 10101 would allow us to implement. In every case, the money in dispute represents a federal share of expenditures long ago paid out of pocket by the 19 states for services provided to poor people within their borders—services such as alcoholism and narcotic treatment, mental health services, vocational training, child welfare services, and the like.

In no case does any state receive the full amount of its claim outstanding, but in each case the sum to be paid is a compromise figure. Besides permitting the termination of a number of pending court proceedings, at significant savings to the states, this bill will permit the Department of Health, Education, and Welfare to redirect some of its resources, now being expended in this controversy, to other needed tasks, and it will remove one irritant in the relations between the states and the federal government in Washington.

For these reasons, and in the interest of fairness and compromise, I urge members to consider this bill favorably.



SCHEDULE SHOWING EXPENDITURES INCURRED BEFORE AND AFTER JULY 1, 1972, INCLUDED IN THE DISPUTED CLAIMS BY THE 28 STATES THAT NEGOTIATED A SETTLEMENT WITH HEW

[Dollar amounts in millions]

| State                                                                             | Total<br>unpaid claims | Unpaid claims for<br>expenditures incurred |                                           | Total<br>paid claims | Paid claims for<br>expenditures incurred |                                           |
|-----------------------------------------------------------------------------------|------------------------|--------------------------------------------|-------------------------------------------|----------------------|------------------------------------------|-------------------------------------------|
|                                                                                   |                        | Before<br>July 1, 1972                     | From July 1,<br>1972 to Sept.<br>30, 1975 |                      | Before<br>July 1, 1972                   | From July 1,<br>1972 to Sept.<br>30, 1975 |
| Alabama                                                                           |                        |                                            |                                           | \$1.0                |                                          | \$1.0                                     |
| Alaska                                                                            |                        |                                            |                                           | .7                   | \$0.4                                    | .3                                        |
| Arizona                                                                           |                        |                                            |                                           | 5.2                  | 3.9                                      | 1.3                                       |
| Arkansas                                                                          | \$3.8                  | \$3.8                                      |                                           |                      |                                          |                                           |
| California                                                                        |                        |                                            |                                           | 1.5                  | .6                                       | .9                                        |
| Connecticut                                                                       | 38.0                   | 29.5                                       | \$8.5                                     | 6.0                  |                                          | 6.0                                       |
| Florida                                                                           | 28.7                   |                                            | 28.7                                      | 29.1                 | 24.9                                     | 4.2                                       |
| Georgia                                                                           | .7                     |                                            | .7                                        | 6.0                  |                                          | 6.0                                       |
| Idaho                                                                             | 1.1                    |                                            | 1.1                                       |                      |                                          |                                           |
| Illinois                                                                          | 87.3                   | 10.1                                       | 77.2                                      | 188.4                | 87.3                                     | 101.1                                     |
| Kentucky                                                                          |                        |                                            |                                           | 24.                  |                                          | 2.4                                       |
| Louisiana                                                                         |                        |                                            |                                           | 16.7                 | 16.6                                     | .1                                        |
| Maine                                                                             | 2.2                    | 2.2                                        |                                           |                      |                                          |                                           |
| Maryland                                                                          | 24.7                   | 13.8                                       | 10.9                                      |                      |                                          |                                           |
| Massachusetts                                                                     | 142.0                  | 49.5                                       | 92.5                                      |                      |                                          |                                           |
| Michigan                                                                          | 57.1                   | 35.7                                       | 21.4                                      | 8.4                  |                                          | 8.4                                       |
| Minnesota                                                                         | 49.4                   | 37.9                                       | 11.5                                      | 4.0                  |                                          | 4.0                                       |
| Missouri                                                                          |                        |                                            |                                           | .2                   | .15                                      | .05                                       |
| New Jersey                                                                        | 1.3                    |                                            | 1.3                                       |                      |                                          |                                           |
| New York                                                                          | 914.0                  | 914.0                                      |                                           | 490.0                | 490.0                                    |                                           |
| Ohio                                                                              | 15.1                   |                                            | 15.1                                      | 5.0                  |                                          | 5.0                                       |
| Oklahoma                                                                          |                        |                                            |                                           | 13.8                 | 4.3                                      | 9.5                                       |
| Pennsylvania                                                                      | 4.2                    |                                            | 4.2                                       | 2.8                  |                                          | 2.8                                       |
| Rhode Island                                                                      |                        |                                            |                                           | 1.2                  | .9                                       | .3                                        |
| Tennessee                                                                         | ( <sup>1</sup> )       |                                            | ( <sup>1</sup> )                          | .5                   |                                          | .5                                        |
| Texas                                                                             | 92.7                   | 92.7                                       |                                           | 34.7                 | 34.7                                     |                                           |
| Washington                                                                        | 32.8                   | 32.8                                       |                                           | 5.6                  | 5.6                                      |                                           |
| Wisconsin                                                                         | 65.0                   | 52.5                                       | 12.5                                      | 6.3                  | .8                                       | 5.5                                       |
| Total                                                                             | 1,560.1                | 1,274.5                                    | 285.6                                     | 829.5                | 670.15                                   | 159.35                                    |
|                                                                                   |                        |                                            |                                           |                      |                                          | Amount                                    |
| Expenditures incurred before July 1, 1972 (\$1,274.50+\$670.15)                   |                        |                                            |                                           |                      |                                          | \$1,944.65                                |
| Expenditures incurred from July 1, 1972 to September 30, 1975 (\$285.60+\$159.35) |                        |                                            |                                           |                      |                                          | 444.95                                    |
| Total                                                                             |                        |                                            |                                           |                      |                                          | 2,398.60                                  |

<sup>1</sup> Tennessee has unpaid claims of only \$4,000.