

U.S. charges state abortion aid abuse

By Ellen Warren

Sun-Times Bureau

WASHINGTON—The Illinois Department of Public Aid has improperly asked for—and received—more than \$1 million in federal Medicaid funds for abortions performed on poor women, Health, Education and Welfare Sec. Joseph A. Califano Jr. said Wednesday.

In a letter to Gov. Thompson, Califano charged that preliminary findings of a HEW audit show that the state "improperly" billed the federal agency more than \$1 million for 12,600 abortions not eligible for federal funding under the Medicaid program.

A spokesman for Califano said that HEW paid the \$1 million but now intends to get it back.

At issue are the provisions of the "Hyde Amendment" to the HEW budget, which, since Aug. 4, 1977, has prohibited federal spending for Medicaid abortions except when strict criteria are met.

12,000 abortions in question—performed in Illinois between Aug. 10, 1977, and June 30, 1978—apparently do not meet those criteria and thus the state is not eligible for federal reimbursement.

Illinois Public Aid Director Arthur Quern denied any intentional impropriety and accused Califano of making "a sham of the traditional audit process."

Federal Medicaid abortion laws stipulate that federal money can be used for an abortion only if:

- The mother's life would be endangered if the fetus were carried to term.
- The pregnancy resulted from rape or incest promptly reported to a law-enforcement agency.
- Two physicians certify that continued pregnancy would result in "severe and long-lasting physical health damage to the mother."

CITING THE preliminary audit findings in the letter to Thompson, Califano wrote, "I ask that you direct the Illinois Department of Public Aid to review its procedures to ensure that federal matching funds are claimed only for those abortions that meet the requirements of federal law."

Using Illinois as an example of the abuse of the law, Califano also sent an internal

memo to HEW Inspector Gen. Thomas Morris and HEW Health Care Financial Administration chief Leonard Schaeffer saying, "We must take immediate steps to ensure that no other state is certifying ineligible abortion claims for payment."

Under pressure from anti-abortion congressmen to monitor federal funding of abortions closely, Califano in February ordered HEW audits of payment procedures in 12 large states. Only the Illinois audit has reached even the preliminary findings stage.

Under a U.S. District Court order issued in Chicago, the Illinois Department of Public Aid is required to pay the full cost of poor women's abortions. The state, in some cases, then attempts to recoup-half that cost from the federal Medicaid program.

QUERN SAID THE \$1 million in allegedly improper state billings to HEW may have resulted from differing interpretations of the effect of that court order.

"Over the last year . . . we have specifically been asking what their [HEW's] opinion was of the effect of that [federal judge's] decision. And on Monday of this week, we received an answer," he said.

Quern said he received a letter Monday from Martin Stanton, regional HEW Medicaid director in Chicago, that said, "The question is essentially whether the [HEW] department will match Illinois payments for abortions which are not covered under the

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[Hyde Amendment] regulations, but which Illinois is required to provide under the court order. The answer is no."

That interpretation was reiterated Wednesday in Califano's letter to Thompson, in which he wrote: "The fact that state laws, or court decisions with respect to state laws, permit or require state funding of, more abortions than are fundable under federal

law does not justify federal financial participation for those additional abortions."

ASKED TO EXPLAIN why HEW paid out the \$1 million to Illinois, apparently without questioning the 12,600 abortions, HEW spokeswoman Eileen Shanahan said the agency's payout procedures have been a "problem."

She said that under the reimbursement process, states' Medicaid claims for federal

payments do not specify what type of medical care the money was used for: "It doesn't say appendectomy, hip fracture, abortion. It doesn't say what the procedure was."

The "inadequate" system will be improved Jan. 1, she said.

The HEW audit findings are in sharp disparity with figures contained in a form submitted by the Department of Public Aid to HEW last summer. That form, another of Califano's efforts to monitor federal abortion spending, asked all states to list the number of abortions performed that met the Hyde criteria and the cost to the federal government.

The Illinois response listed only 124 abor-

tions at a cost of \$37,000 between Feb. 14 and June 30, 1978.

QUERN SAID HE could not explain the disparities because HEW had violated usual audit procedures by making public its preliminary findings without consulting the Public Aid Department. He said he had no idea how HEW reached the \$1 million and 12,600 conclusions.

He defended the Illinois department, however, saying: "We wouldn't have submitted the claim [to HEW] unless we thought it was reimbursable." He also noted, "In the federal system, until you make a claim and have it rejected by the feds, you can't even argue it."