



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office Of Inspector General  
Office Of Audit Services

Region II  
Jacob K. Javits Federal Building  
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New York, NY 10278

February 8, 2008

Report Number: A-02-04-01017

Ms. Jennifer Velez, Esq.  
Commissioner  
New Jersey Department of Human Services  
222 South Warren Street  
Trenton, New Jersey 08625-0700

Dear Ms. Velez:

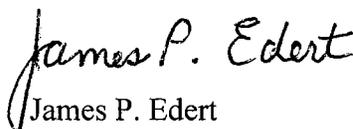
Enclosed is the U.S. Department of Health and Human Services (HHS), Office of Inspector General (OIG), final report entitled "Review of New Jersey's Medicaid School-Based Rates." We will forward a copy of this report to the HHS action official noted on the following page for review and any action deemed necessary.

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

Pursuant to the principles of the Freedom of Information Act, 5 U.S.C. § 552, as amended by Public Law 104-231, OIG reports generally are made available to the public to the extent the information is not subject to exemptions in the Act (45 CFR part 5). Accordingly, within 10 business days after the final report is issued, it will be posted on the Internet at <http://oig.hhs.gov>.

If you have any questions or comments about this report, please do not hesitate to call me, or contact John Berbach, Audit Manager, at (518) 437-9390, extension 228 or through e-mail at [John.Berbach@oig.hhs.gov](mailto:John.Berbach@oig.hhs.gov). Please refer to report number A-02-04-01017 in all correspondence.

Sincerely,

  
James P. Edert  
Regional Inspector General  
for Audit Services

Enclosure

**Direct Reply to HHS Action Official:**

Jackie Garner  
Consortium Administrator  
Consortium for Medicaid and Children's Health Operations  
Centers for Medicare & Medicaid Services  
233 North Michigan Avenue, Suite 600  
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Department of Health and Human Services

**OFFICE OF  
INSPECTOR GENERAL**

**REVIEW OF NEW JERSEY'S  
MEDICAID SCHOOL-BASED  
RATES**



Daniel R. Levinson  
Inspector General

February 2008  
A-02-04-01017

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<http://oig.hhs.gov>

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Department of Health and Human Services

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# *Notices*

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at <http://oig.hhs.gov>

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## **OFFICE OF AUDIT SERVICES FINDINGS AND OPINIONS**

The designation of financial or management practices as questionable, a recommendation for the disallowance of costs incurred or claimed, and any other conclusions and recommendations in this report represent the findings and opinions of OAS. Authorized officials of the HHS operating divisions will make final determination on these matters.

## **EXECUTIVE SUMMARY**

### **BACKGROUND**

Congress amended section 1903(c) of the Social Security Act in 1988 to permit Medicaid coverage of health-related services provided to children pursuant to Part B of the Individuals with Disabilities Education Act. The Medicaid school-based program allows Medicaid reimbursement for health-related services and administrative costs.

In 1993, New Jersey began to claim Medicaid reimbursement for health-related services through a program called the Special Education Medicaid Initiative (SEMI) program. In July 1998, New Jersey began claiming administrative costs through a program called the Medicaid Administrative Claiming (MAC) program.

From July 1, 1998, through June 30, 2001, the State received Federal Medicaid payments of \$101 million for the SEMI program and \$77 million for the MAC program.

### **OBJECTIVE**

Our objective was to determine whether the rates used by New Jersey to claim Federal Medicaid reimbursement under the SEMI and MAC programs were reasonable and complied with Federal requirements and the Medicaid State plan.

### **SUMMARY OF FINDINGS**

The rates used by New Jersey to claim Federal Medicaid reimbursement under the SEMI and MAC programs were not reasonable and did not comply with Federal requirements and the Medicaid State plan. The SEMI and MAC rate-setting methodologies included costs that were duplicated, unallowable, or improperly allocated. As a result, the State improperly received Federal Medicaid payments during the period July 1, 1998, through June 30, 2001. These improper payments were not quantified because a prior Office of Inspector General audit report (Report Number A-02-03-01003) questioned school-based claims billed by New Jersey for the same period.

The improper Medicaid payments occurred because: (1) the State's contractor, Maximus, improperly included certain costs in its development of the SEMI rates, (2) the State's contractor, Deloitte Consulting, duplicated certain costs in the rates it established for the MAC program that were already included in the SEMI rates, and (3) the State's oversight of the contingency fee contractors it hired to develop the rates was ineffective.

As a result of our audit, the State has taken corrective actions. Specifically, effective July 1, 2002, the State removed the duplicate costs from the MAC rates. Effective July 1, 2003, the State revised the SEMI rates.

We recommend that the State:

- work with the Centers for Medicare & Medicaid Services (CMS) to determine the overpayment amounts to the Federal Medicaid program during our July 1, 1998, through June 30, 2001, audit period, and for periods subsequent to our audit period, and return those overpayments to the Federal Government, and
- ensure that rates used to claim Federal Medicaid reimbursement for school-based services and administration are properly developed and documented.

## **STATE'S COMMENTS**

In written comments on our draft report, the State concurred with our findings and recommendations. The State's comments are included in their entirety as an appendix.

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# INTRODUCTION

## BACKGROUND

### The Medicaid Program

Pursuant to Title XIX of the Social Security Act (the Act), the Medicaid program provides medical assistance to low-income individuals and individuals with disabilities. The Federal and State Governments jointly fund and administer the Medicaid program. At the Federal level, the Centers for Medicare & Medicaid Services (CMS) administers the program. Each State administers its Medicaid program in accordance with a CMS-approved State plan. Although the State has considerable flexibility in designing and operating its Medicaid program, it must comply with applicable Federal requirements.

### Medicaid Coverage of School-Based Services

Section 411(k)(13) of the Medicare Catastrophic Coverage Act of 1988 (Public Law 100-360) amended section 1903(c) of the Act to permit Medicaid payment for medical services provided to children under the Individuals with Disabilities Education Act (IDEA) (originally enacted as Public Law 91-230 in 1970) through a child's individualized education plan (child's plan). Under the Act, States are permitted to claim Federal Medicaid reimbursement for health-related services and administrative costs for school-based activities.

In August 1997, CMS issued a school-based guide entitled "Medicaid and School Health: A Technical Assistance Guide." According to this guide, school health-related services included in a child's plan may be covered if all relevant statutory and regulatory requirements are met. In addition, the guide provides that a State may cover services included in a child's plan as long as (1) the services are listed in section 1905(a) of the Act and are medically necessary; (2) all Federal and State regulations are followed, and (3) the services are included in the State plan or available under the Early and Periodic Screening, Diagnostic and Treatment (EPSDT) Medicaid benefit.

Under the heading Establishing Payment Rates, CMS's Technical Assistance Guide states that payment rates for school-based activities may be developed as long as the rates are consistent with efficiency, economy, and quality of care. The guide states that in creating a new rate, the State must use statistically accurate and valid data to justify rate amounts. Additionally, the guide states that payments must be reasonable and adequate to meet the costs incurred.

Under the heading No Duplicate Payments, the guide states that in determining the allowable administrative costs, the basic principle is that duplicate payments are not allowable. The guide further states that payments for allowable administrative activities must not duplicate payments that have been or should have been included and paid as part of a rate for services.

The costs claimed for Federal reimbursement must also comply with Office of Management and Budget (OMB) Circular A-87, which contains principles and standards for determining costs reimbursed to State governments. Sections C.1.a and b of Attachment A of those principles states that to be allowable, costs must be necessary and reasonable for proper and efficient

performance and administration of Federal awards and be allocable to Federal awards under the provisions of the Circular.

### **New Jersey's Medicaid School-Based Program**

The New Jersey Department of Human Services is the State agency responsible for operating the Medicaid program. Within the New Jersey Department of Human Services, the Division of Medical Assistance and Health Services administers the Medicaid program.

In 1993, the State applied to CMS to amend its State plan to obtain Federal Medicaid funds for health-related services provided by schools pursuant to IDEA. The State named the program the Special Education Medicaid Initiative (SEMI). As part of its State plan submission, the State provided supporting documentation to CMS explaining how the fees for the SEMI program were established. In this documentation, the State assured CMS that the fees were based on the reasonable costs of providing the services. Based on this documentation, CMS approved the State plan amendment 93-26.

The Department of Human Services administered the SEMI program through a cooperative agreement with the State Department of Education. The State hired the consulting firm of Health Care Resources, Incorporated, to operate the SEMI program, which was supervised by the Department of Education. In 1997, the State Department of the Treasury became the administrative manager of the SEMI program, supervising the consultant operating the program. The Department of Human Services, however, continued to have final responsibility for approving rates and claims. In 1998, the Department of the Treasury hired Maximus, Incorporated, to operate the SEMI program. The Department of the Treasury primarily paid Maximus based on the amount of Federal payments obtained through the SEMI program. Maximus recalculated the SEMI rates, increasing most retroactively to July 1, 1997.

In 1996, the Department of the Treasury awarded Deloitte Consulting (Deloitte) a contingency fee contract to enhance Federal revenue. One initiative Deloitte developed was a program for the State to obtain Federal Medicaid funds for school-based administrative activities. The State began claiming Federal Medicaid funds for administrative activities effective July 1, 1998. The State initially named its program EPSDT Administration, and later changed the name to the Medicaid Administrative Claiming (MAC) program.

During our July 1, 1998, through June 30, 2001, audit period, the State received Federal Medicaid payments of \$101 million for the SEMI program and \$77 million for the MAC program.

### **Prior Office of Inspector General Audit Report**

On May 19, 2006, the Office of Inspector General issued a report on the State's SEMI program for the period July 1, 1998, through June 30, 2001 (same as our current audit period).<sup>1</sup> The objective of the audit was to determine whether Federal Medicaid payments for school-based health services claims claimed by school health providers in New Jersey were in compliance

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<sup>1</sup>Report Number A-02-03-01003

with Federal and State requirements. Among other recommendations, the report recommended that the State refund \$51,262,609 to the Federal Government and work with CMS to resolve \$1,046,786 in set-aside claims. These recommendations were based on the SEMI rates paid by the State during our audit period.

## **OBJECTIVE, SCOPE, AND METHODOLOGY**

### **Objective**

Our objective was to determine whether the rates used by New Jersey to claim Federal Medicaid reimbursement under the SEMI and MAC programs were reasonable and complied with Federal requirements and the Medicaid State plan.

### **Scope**

For the period July 1, 1998, through June 30, 2001, we reviewed SEMI and MAC program rates. We did not review the overall internal control structure of the State's Medicaid program. Rather, we limited our internal control review to the objective of our audit.

### **Methodology**

We performed fieldwork at the State agency's offices in Trenton, New Jersey.

To accomplish our objective, we:

- reviewed applicable Federal and State laws and regulations, OMB Circular A-87, CMS guidance, and the New Jersey Medicaid State plan;
- held discussions with CMS officials to determine the nature and scope of prior CMS reviews regarding the State's SEMI and MAC rate-setting methodologies;
- reviewed correspondence that documented CMS's approvals and reviews of the SEMI and MAC programs;
- held discussions with State officials to gain an understanding of the State's SEMI and MAC rate-setting methodologies;
- reviewed documents, correspondence, and memoranda used to develop the State's SEMI and MAC rate-setting methodologies; and
- reviewed documents supplied by the State, which provided an explanation of the correction to the SEMI and MAC rates.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

## **FINDINGS AND RECOMMENDATIONS**

The rates used by New Jersey to claim Federal Medicaid reimbursement under the SEMI and MAC programs were not reasonable and did not comply with Federal requirements and the Medicaid State plan. The SEMI and MAC rate-setting methodologies included costs that were duplicated, unallowable, or improperly allocated. As a result, the State improperly received Federal Medicaid payments during the period July 1, 1998, through June 30, 2001. These improper payments were not quantified because a prior audit questioned school-based claims billed by New Jersey for the same period.

The improper Medicaid payments occurred because: (1) Maximus improperly included certain costs in its development of SEMI program rates, (2) Deloitte duplicated certain costs in the rates it established for the MAC program that were already included in the SEMI rates, and (3) the State's oversight of the contingency fee contractors it hired to develop the rates was ineffective.

As a result of our audit, the State has taken corrective actions. Specifically, effective July 1, 2002, the State removed the duplicate costs from the MAC rates, and effective July 1, 2003, the State revised the SEMI rates.

### **THE SEMI AND MAC RATES WERE OVERSTATED**

The rates used by New Jersey to claim Federal Medicaid reimbursement under the SEMI and MAC programs were not reasonable and did not comply with Federal requirements and the Medicaid State plan. The SEMI and MAC rate-setting methodologies included costs that were duplicated, unallowable, or improperly allocated, which caused the rates to be overstated.

When the SEMI program started in 1993, Health Care Resources Incorporated improperly included 100 percent of the costs of certain personnel who only spent part of their time providing SEMI services. When Maximus recalculated the rates effective July 1, 1997, it continued to include these improper personnel costs. The SEMI rates also improperly included: (1) the costs of learning disability teacher consultants who provide educational and not health services, (2) certain nursing costs, (3) a 1 percent add-on for State Department of Education overhead, and (4) an allocation of one-half of the evaluation costs to health services.

The methodology used by Deloitte to develop the MAC rates effective July 1, 1998, included costs that were already contained in the costs used to develop the SEMI rates. Specifically, Deloitte included the following health services personnel in the computations of MAC rates that were also in the SEMI rates: (1) nurses, (2) psychologists, (3) speech therapists, (4) physical therapists, (5) occupational therapists, and (6) child study team social workers.

Office of Management and Budget Circular A-87, sections C.1.a and b state that for costs to be allowable, they must be necessary and reasonable for the proper and efficient performance and administration of Federal awards and be allocable to Federal awards under the provisions of the Circular.

The CMS Technical Assistance Guide issued in August 1997 states that payment rates for school-based providers may be developed as long as the rates are consistent with efficiency,

economy, and quality of care. The guide states that in creating a new rate, the State must use statistically accurate and valid data to justify the rate amounts. Additionally, the guide states that payments must be reasonable and adequate to meet the costs incurred. Further, the guide states that in determining allowable administrative costs, the basic principle is that duplicate payments are not allowable, and that payments for allowable administrative activities must not duplicate payments that have been or should have been included and paid as part of a rate for services.

In its State plan, the State represented that the rates for SEMI services would be based on the reasonable costs of providing the services.

The inclusion of duplicate, unallowable, and improperly allocated costs in the SEMI and MAC rates was not reasonable and did not comply with Federal requirements and the State plan.

**CAUSES OF THE OVERSTATED RATES**

The rates were overstated because: (1) the State’s contractor, Maximus, improperly included certain costs in its development of SEMI rates, (2) the State’s contractor, Deloitte, duplicated certain costs in the rates it established for the MAC program that were already included in the SEMI rates, (3) and the State’s oversight of the contingency fee contractors it hired to develop the rates was ineffective.

**CORRECTION OF THE SCHOOL-BASED RATES BY THE STATE**

As a result of our audit, the State has taken corrective actions. Specifically, effective July 1, 2002, the State removed the duplicate costs from the MAC rates. Effective July 1, 2003, the State revised the SEMI rates. The revised rates were as follows:

<b>School-Based Service</b>	<b>Original Rate</b>	<b>Revised Rate</b>	<b>Percent Change</b>
Evaluations	\$ 1,120.13	\$ 552.06	-51%
In-District Health Services	\$ 167.09	\$ 20.91	-87%
Out-of-District Health Services	\$ 89.33	\$ 18.77	-79%

State officials have indicated that the MAC and SEMI rates need to be retroactively corrected and that this correction would impact our prior SEMI audit. State officials stated that because of the myriad of items and calculations used to identify MAC costs, a direct identification of any past duplication in the MAC program appeared impractical or impossible. As such, State officials proposed to retroactively reduce the SEMI rates for our July 1, 1998, through June 30, 2001, audit period by utilizing the rates it developed effective July 1, 2003.

## **RECOMMENDATIONS**

We recommend that the State:

- work with CMS to determine the overpayment amounts to the Federal Medicaid program during our July 1, 1998, through June 30, 2001, audit period, and for periods subsequent to our audit period, and return those overpayments to the Federal Government, and
- ensure that rates used to claim Federal Medicaid reimbursement for school-based services and administration are properly developed and documented.

## **STATE'S COMMENTS**

In its January 29, 2008, written comments on our draft report, the State concurred with our findings and recommendations. The State's comments appear in their entirety as an appendix.

# **APPENDIX**



**State of New Jersey**  
DEPARTMENT OF HUMAN SERVICES  
DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES  
PO Box 712  
TRENTON NJ 08625-0712  
TELEPHONE 1-800-356-1561

JON S. CORZINE  
*Governor*

JENNIFER VELEZ  
*Commissioner*

JOHN R. GUHL  
*Director*

January 29, 2008

James P. Edert  
Regional Inspector General for Audit Services  
Department of Health and Human Services  
Office of Inspector General  
Office of Audit Services Region II  
Jacob K. Javits Federal Building – Room 3900  
New York, NY 10278

**Report Number A-02-04-01017**

Dear Mr. Edert:

This is in response to the Department of Health and Human Services, Office of the Inspector General's (OIG) letter dated November 30, 2007 with attached draft audit report entitled "Review of New Jersey's Medicaid School-Based Rates."

The draft audit report contains one finding and two recommendations. The report identifies the finding that rates used by New Jersey to claim Federal Medicaid reimbursement under the Special Education Medicaid Initiative (SEMI) and Medicaid Administration Claiming (MAC) programs were not reasonable and did not comply with Federal requirements and the Medicaid State plan. The recommendations are: 1) work with CMS to determine the overpayment amounts to the Federal Medicaid program during our July 1, 1998, through June 30, 2001, audit period, and for periods subsequent to our audit period, and return those overpayments to the Federal Government and 2) ensure that rates used to claim Federal Medicaid reimbursement for school-based services and administration are properly developed and documented.

Please be advised that we are aware of the issues cited in the draft audit report. As you note, corrective action has been taken to assure the current rates are reasonable and comply with federal requirements. We will continue to ensure that the rates used to claim Federal Medicaid reimbursement for school-based services and administration are properly developed and documented. Additionally, we welcome the opportunity to work with CMS to resolve any overpayments.

James P Edert  
January 29, 2008  
Page 2

The opportunity to comment on this draft audit report is greatly appreciated. If you have any questions or require additional information, please contact me or David Lowenthal at 609-588-7933.

Sincerely,



John R. Guhl  
Director

JRG:L

c: Jennifer Velez  
David Lowenthal