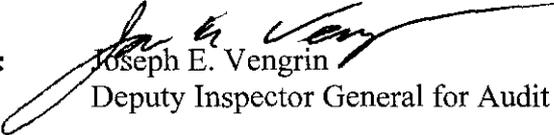




JUN 22 2005

TO: Dennis G. Smith
Director, Center for Medicaid and State Operations
Centers for Medicare & Medicaid Services

FROM: 
Joseph E. Vengrin
Deputy Inspector General for Audit Services

SUBJECT: Review of West Virginia's Accounts Receivable System for Medicaid
Provider Overpayments (A-03-04-00207)

Attached is an advance copy of our final report on West Virginia's accounts receivable system for Medicaid provider overpayments. In West Virginia, the Department of Health and Human Resources (the State agency) administers the Medicaid program. We will issue this report to the State agency within 5 business days. This review was part of a multistate audit requested by the Centers for Medicare & Medicaid Services (CMS).

Our objective was to determine whether the State agency reported Medicaid provider overpayments in accordance with Federal requirements.

The State agency did not report all overpayments in accordance with Federal requirements during our October 1, 2002, through September 30, 2003, audit period. Specifically, the State agency (1) did not report overpayments totaling \$3,774,106 (\$2,940,469 Federal share) to CMS because it was waiting to implement changes to its Medicaid Management Information System and (2) did not report overpayments totaling \$3,280,807 (\$2,477,041 Federal share) within the required timeframe because of an oversight and because it did not use the correct date of discovery. This nonreporting and untimely reporting potentially resulted in approximately \$20,000 in higher interest expense to the Federal Government.

We recommend that the State agency:

- include unreported overpayments totaling \$3,774,106 on the Quarterly Medicaid Statement of Expenditures for the Medical Assistance Program, Form CMS-64 (CMS-64), and refund \$2,940,469 to the Federal Government;
- determine the value of overpayments identified after our audit period that have not been reported and include them on the CMS-64; and
- ensure that all future overpayments are reported within 60 days in accordance with Federal regulations, thereby mitigating the potentially higher interest expense to the Federal Government.

In response to our draft report, the State agency agreed with our second and third recommendations. With regard to our first recommendation, the State agency agreed that it (1) delayed reporting certain overpayments, (2) did not report some overpayments within the required timeframe, and (3) did not report some overpayments in full during the review period. In recognition of its liability, the State agency said that it had reported \$826,899 in estimated unreported overpayments and that it would deal directly with CMS to resolve the remaining overpayments.

The State agency did not provide adequate documentation to support how it arrived at the \$826,899 reported to date. The State agency must provide CMS with documentation supporting the adjustments. The additional \$2,947,207 in unreported overpayments identified in our review must be reported on the CMS-64 as well, and the Federal share must be refunded.

If you have any questions or comments about this report, please do not hesitate to call me, or your staff may contact George M. Reeb, Assistant Inspector General for the Centers for Medicare & Medicaid Audits, at (410) 786-7104 or Stephen Virbitsky, Regional Inspector General for Audit Services, Region III, at (215) 861-4470. Please refer to report number A-03-04-00207 in all correspondence.

Attachment



DEPARTMENT OF HEALTH & HUMAN SERVICES
OFFICE OF INSPECTOR GENERAL
OFFICE OF AUDIT SERVICES
150 S. INDEPENDENCE MALL WEST
SUITE 316
PHILADELPHIA, PENNSYLVANIA 19106-3499

JUN 27 2005

Report Number: A-03-04-00207

Nancy Atkins, Commissioner
Department of Health and Human Resources
Bureau for Medical Services
350 Capitol Street, Room 251
Charleston, West Virginia 25301

Dear Commissioner Atkins:

Enclosed are two copies of the Department of Health and Human Services (HHS), Office of Inspector General report entitled "Review of West Virginia's Accounts Receivable System for Medicaid Provider Overpayments." A copy of this report will be forwarded to the action official noted below for her review and any action deemed necessary.

Final determination as to actions taken on all matters reported will be made by the HHS action official named below. We request that you respond to the HHS action 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.

In accordance with the principles of the Freedom of Information Act, 5 U.S.C. 552, as amended by Public Law 104-231, Office of Inspector General reports issued to the Department's grantees and contractors are made available to members of the press and general public to the extent information contained therein is not subject to exemptions in the Act which the Department chooses to exercise. (See 45 CFR Part 5).

Please refer to report number A-03-04-00207 in all correspondence relating to this report.

Sincerely,

A handwritten signature in black ink, appearing to read "Stephen Virbitsky", with a long horizontal line extending to the right.

Stephen Virbitsky
Regional Inspector General
for Audit Services

Enclosure

Direct Reply to HHS Action Official:

Nancy B. O'Connor, Regional Administrator
Centers for Medicare & Medicaid Services - Region III
U.S. Department of Health and Human Services
150 South Independence Mall West, Suite 216
Philadelphia, Pennsylvania 19106-3499

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**REVIEW OF WEST VIRGINIA'S
ACCOUNTS RECEIVABLE SYSTEM
FOR MEDICAID PROVIDER
OVERPAYMENTS**



**JUNE 2005
A-03-04-00207**

Office of Inspector General

<http://oig.hhs.gov>

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In accordance with the principles of the Freedom of Information Act (5 U.S.C. 552, as amended by Public Law 104-231), Office of Inspector General, Office of Audit Services reports are made available to members of the public to the extent the information is not subject to exemptions in the act. (See 45 CFR part 5.)

OAS FINDINGS AND OPINIONS

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



EXECUTIVE SUMMARY

BACKGROUND

This review was part of a multistate audit focusing on States' accounts receivable systems for Medicaid provider overpayments. The Centers for Medicare & Medicaid Services (CMS) requested the audit.

The principal authority for disallowing the Federal share of overpayments to providers is section 1903(d)(2) of the Social Security Act (the Act), as amended by section 9512 of the Consolidated Omnibus Budget Reconciliation Act of 1985.

The Act states that CMS will adjust reimbursements to a State for any overpayment or underpayment and requires States to report overpayment adjustments within 60 days from the date of discovery, whether or not the State has recovered the overpayment from the provider. The State must credit the Federal share of those overpayments on the Quarterly Medicaid Statement of Expenditures for the Medical Assistance Program, Form CMS-64 (CMS-64), for the quarter in which the 60-day period ends. The Act also states that the State need not adjust the Federal payment if it is unable to recover an overpayment because the provider filed for bankruptcy or went out of business, assuming that the State followed proper due diligence during the 60-day period.

In West Virginia, the Department of Health and Human Resources (the State agency) administers the Medicaid program.

OBJECTIVE

Our objective was to determine whether the State agency reported Medicaid provider overpayments in accordance with Federal requirements.

SUMMARY OF FINDINGS

The State agency did not report all overpayments in accordance with Federal requirements during our October 1, 2002, through September 30, 2003, audit period. Specifically, the State agency:

- did not report overpayments totaling \$3,774,106 (\$2,940,469 Federal share) to CMS because it was waiting to implement changes to its Medicaid Management Information System and
- did not report overpayments totaling \$3,280,807 (\$2,477,041 Federal share) within the required timeframe because of an oversight and because it did not use the correct date of discovery.

As a result, the State agency did not return the \$2,940,469 Federal share of unreported overpayments and delayed returning the \$2,477,041 Federal share of overpayments not reported within the required timeframe. This nonreporting and untimely reporting also potentially resulted in approximately \$20,000 in higher interest expense to the Federal Government.

RECOMMENDATIONS

We recommend that the State agency:

- include unreported overpayments totaling \$3,774,106 on the CMS-64 and refund \$2,940,469 to the Federal Government;
- determine the value of overpayments identified after our audit period that have not been reported and include them on the CMS-64; and
- ensure that all future overpayments are reported within 60 days in accordance with Federal regulations, thereby mitigating the potentially higher interest expense to the Federal Government.

STATE AGENCY COMMENTS

In response to our draft report, the State agency agreed with our second and third recommendations. With regard to our first recommendation, the State agency agreed that it (1) delayed reporting certain overpayments, (2) did not report some overpayments within the required timeframe, and (3) did not report some overpayments in full during the review period. In recognition of its liability, the State agency said that it had reported \$826,899 in estimated unreported overpayments and that it would deal directly with CMS to resolve the remaining overpayments.

The State agency's comments are included as an appendix to this report.

OFFICE OF INSPECTOR GENERAL RESPONSE

The State agency did not provide adequate documentation to support how it arrived at the \$826,899 reported to date. The State agency must provide CMS with documentation supporting the adjustments. The additional \$2,947,207 in unreported overpayments identified in our review must be reported on the CMS-64 as well, and the Federal share must be refunded.

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INTRODUCTION

BACKGROUND

This review was part of a multistate audit focusing on States' accounts receivable systems for Medicaid provider overpayments. The Centers for Medicare & Medicaid Services (CMS) requested the audit.

The Medicaid Program

Enacted in 1965, Medicaid is a combined Federal-State entitlement program that provides health and long-term care for certain individuals and families with low incomes and limited resources. Within a broad legal framework, each State designs and administers its own Medicaid program, including specifying how much to pay for each service. Each State operates under a plan approved by CMS for compliance with Federal laws and regulations. The Federal Government established a financing formula to calculate the Federal share of the medical assistance expenditures under each State's Medicaid program.

In West Virginia, the Department of Health and Human Resources (the State agency) administers the Medicaid program. The Federal share of expenditures in West Virginia was 75.04 percent for the first two quarters of fiscal year 2003 and 78.22 percent for the last two quarters.

Medicaid Overpayments

The principal authority for disallowing the Federal share of overpayments to providers is section 1903(d)(2) of the Social Security Act (the Act), as amended by section 9512 of the Consolidated Omnibus Budget Reconciliation Act (COBRA) of 1985.

The Federal Government does not participate financially in Medicaid payments for excessive or erroneous expenditures. Therefore, when a State recognizes that it made a Medicaid overpayment, it must report the amount of the overpayment on the Quarterly Medicaid Statement of Expenditures for the Medical Assistance Program, Form CMS-64 (CMS-64), as an offset to expenditures. Under certain circumstances, such as the provider's bankruptcy, the State may reclaim the overpayment on the CMS-64. For example, assume that the State pays a provider \$100,000 for Medicaid services rendered and claims the expenditures on the CMS-64. Through a later review, the State learns that the provider was overpaid by \$25,000. The State must show the \$25,000 overpayment on the CMS-64, reducing expenditures eligible for Federal participation by this amount. If the provider is then determined to be bankrupt, the State may make a decreasing adjustment to the overpayments on the CMS-64, thus reclaiming the \$25,000 overpayment.

The State agency, providers, or other Federal and State organizations may identify Medicaid overpayments. Within the State agency, the Surveillance and Utilization Review (SUR) unit; the Office of Accountability & Management Reporting (OAMR); and a subcontractor, Health Watch Technologies (HWT), identify Medicaid overpayments. These units perform reviews of Medicaid claims and settlements to determine whether payments to providers are accurate. The State agency's Accounts Receivable Division maintains a universe of all identified overpayments to ensure collection. If a provider does not refund an overpayment through a direct payment, the Accounts Receivable Division enters a lien in the Medicaid Management Information System

(MMIS) and collects the overpayment from future claims. Each quarter, overpayment status is provided to the Grants Management Division for reporting on the CMS-64.

OBJECTIVE, SCOPE, AND METHODOLOGY

Objective

Our objective was to determine whether the State agency reported Medicaid provider overpayments in accordance with Federal requirements.

Scope

We examined overpayments that were reported or should have been reported on the four quarterly CMS-64s for the period October 1, 2002, through September 30, 2003. This review led us to identify overpayments that were not reported or were not reported within the required timeframe on the December 31, 2003, CMS-64.

The objective of our audit did not require an understanding or assessment of the overall internal control structure of the State agency. However, we gained an understanding of controls with respect to overpayments and the aging of accounts receivable. Our review was limited to controls over overpayments and was not intended to be a full-scale internal control assessment of the State agency's Medicaid operations or financial management system. We performed our audit at the State agency in Charleston, WV.

Methodology

To accomplish our objectives, we:

- reviewed applicable Federal criteria, including section 1903 of the Act, Federal regulations (42 CFR § 433), and applicable sections of the State Medicaid Manual;
- gained an understanding of the State agency's procedures for managing provider overpayments;
- interviewed key staff and reviewed records from the State agency's Grants Management Division, Accounts Receivable Division, SUR unit, OAMR, HWT, and Affiliated Computer Systems (the fiscal agent for West Virginia);
- analyzed the four quarterly CMS-64s for fiscal year 2003 along with supporting documentation to verify the reported overpayments and credit adjustments;
- compared the universe of overpayments obtained from the State agency with the individual overpayments identified by each unit to determine whether all identified overpayments were provided to the Accounts Receivable Division;
- compared the universe of overpayments with the overpayments reported on the CMS-64s to determine whether all identified overpayments were reported;

- calculated the number of days between the actual and required reporting dates for all identified overpayments; and
- calculated, using the number of days between the actual and required reporting date, the potentially higher interest expense to the Federal Government for those overpayments that were not reported within the required timeframe.¹

We conducted the review in accordance with generally accepted government auditing standards.

FINDINGS AND RECOMMENDATIONS

The State agency did not report all overpayments in accordance with Federal requirements. Specifically, the State agency:

- did not report overpayments totaling \$3,774,106 (\$2,940,469 Federal share) to CMS because it was waiting to implement changes to its MMIS and
- did not report overpayments totaling \$3,280,807 (\$2,477,041 Federal share) within the required timeframe because of an oversight and because it did not use the correct date of discovery.

As a result, the State agency did not return the \$2,940,469 Federal share of unreported overpayments and delayed returning the \$2,477,041 Federal share of overpayments not reported within the required timeframe. This nonreporting and untimely reporting also potentially resulted in approximately \$20,000 in higher interest expense to the Federal Government.

OVERPAYMENTS NOT REPORTED

The State agency did not report 2,144 overpayments totaling \$3,774,106 (\$2,940,469 Federal share) on the CMS-64. These overpayments consisted of 1,482 overpayments totaling \$2,737,418 (\$2,129,572 Federal share) that should have been reported on the CMS-64 as of September 30, 2003, and 662 overpayments totaling \$1,036,688 (\$810,897 Federal share) that should have been reported as of December 31, 2003.

Section 1903(d)(2) of the Act, as amended by section 9512 of COBRA, states that when an overpayment is discovered, the State has 60 days in which to recover or attempt to recover such overpayment before making an adjustment in the Federal payment to the State. Unless the provider is out of business or bankrupt, the State must make the adjustment in the Federal payment at the end of the 60 days, whether or not the State has made the recovery. The legislation is codified in 42 CFR §§ 433.300-433.322.

The State agency stopped reporting overpayments identified through its SUR unit and HWT as of March 19, 2003, because it was implementing changes to its MMIS. Before March 19, 2003, the Grants Management Division determined that it was reporting some overpayments twice on the CMS-64. Because the State agency had selected a new fiscal agent that was implementing changes to the MMIS, the State agency decided to stop reporting overpayments identified through the SUR

¹Calculated using the applicable daily interest rate pursuant to the Cash Management Improvement Act of 1990.

unit and HWT until the new system was installed and the new fiscal agent assumed control in April 2003. The State agency expected the new system to be in operation shortly thereafter. However, implementation delays pushed the new system start to July 2004. During this period, the State agency continued to identify and collect Medicaid overpayments but did not report them on the CMS-64. The State agency continued not to report overpayments identified through the SUR unit and HWT after September 30, 2003, outside the timeframe of our review.

As a result, the State agency did not return the \$2,940,469 Federal share. This also potentially resulted in approximately \$14,000 in higher interest expense to the Federal Government.

OVERPAYMENTS NOT REPORTED WITHIN THE REQUIRED TIMEFRAME

The State agency did not report 78 overpayments totaling \$3,280,807 (\$2,477,041 Federal share) within the required timeframes.

Pursuant to 42 CFR §§ 433.312, 433.316, and 433.320, the State agency has 60 days from the date of discovery of an overpayment to a provider to recover or seek to recover the overpayment before refunding the Federal share to CMS. Discovery is defined as notification to the provider that an overpayment exists and is due to the State. The discovery date is the beginning date of the 60-calendar-day period. The State agency must refund the Federal share of overpayments at the end of the 60-day period, whether or not the State has recovered the overpayment from the provider. The State must credit the Federal share of overpayments subject to recovery on the CMS-64 submitted for the quarter in which the 60-day period following discovery ends.

The Departmental Appeals Board (DAB) ruled that overpayment notification occurred when the State agency identified an overpayment in a draft report to the provider. For example, New York State Department of Social Services, DAB No. 1536 (1995), concluded that in cases not involving fraud or abuse, issuance of a draft audit report constituted written notice from a State official of a specified overpayment amount subject to recovery. Thus, pursuant to Federal criteria, overpayments are “discovered” at the draft audit stage.

The State agency did not report overpayments within the required timeframe because of an oversight and because it misinterpreted Medicaid’s definition of the date of discovery of an overpayment. A review of 89 overpayments that OAMR identified found that 18 were not reported within the required timeframe because of an oversight. A review of 10 overpayments that the SUR unit identified and 1,252 overpayments that HWT identified found that 60 overpayments were not reported within the required timeframe because the State agency used an incorrect date of discovery.

When the State agency’s SUR unit and HWT identified an overpayment, they submitted a draft report to the provider listing the overpayment and giving the provider 20 days to respond. Once the provider responded or the time allotted passed, the State agency sent a final determination letter to the provider requesting a refund of the overpayment. The State agency considered the date of the final determination letter as the date of discovery for that overpayment. However, because the overpayment was identified in the draft report, the date of discovery occurred at that point. We compared the date that the provider was notified of the overpayment with the date that the State agency reported the overpayment on the CMS-64. On average, the 78 overpayments not reported within the required timeframe were reported 90 days late.

As a result, the State agency delayed returning the Federal share of overpayments totaling \$2,477,041. This delay also potentially resulted in approximately \$6,000 in higher interest expense to the Federal Government.

RECOMMENDATIONS

We recommend that the State agency:

- include unreported overpayments totaling \$3,774,106 on the CMS-64 and refund \$2,940,469 to the Federal Government;
- determine the value of overpayments identified after our audit period that have not been reported and include them on the CMS-64; and
- ensure that all future overpayments are reported within 60 days in accordance with Federal regulations, thereby mitigating the potentially higher interest expense to the Federal Government.

STATE AGENCY COMMENTS

In response to our draft report, the State agency agreed with our second and third recommendations. With regard to our first recommendation, the State agency agreed that it (1) delayed reporting certain overpayments, (2) did not report some overpayments within the required timeframe, and (3) did not report some overpayments in full during the review period. It recognized its liability and has reported \$826,899 in estimated unreported overpayments to date. The State agency said that collections for overpayments identified in the review period continued to be reported on the CMS-64 in subsequent quarters as recoveries were made. The State agency's reporting methodology would cause unreported overpayments to be reported on line 6 of the CMS-64 through expenditure netting or on line 9D of the CMS-64 as an overpayment collection. The State agency will deal directly with CMS on the methodology and resulting overpayment amount.

The State agency's comments are included as an appendix to this report.

OFFICE OF INSPECTOR GENERAL RESPONSE

We reviewed the State agency's methodology and traced each identified overpayment through the accounting and MMIS systems to determine whether a collection or recoupment occurred and whether the overpayment was reported. We determined that overpayments were not reported through expenditure netting on line 6 of the CMS-64. However, if an overpayment was reported on line 9D of the CMS-64, it was not included in our report as an unreported overpayment. We included only overpayments that were not reported.

As to the State agency's comment that overpayments identified in the review period continued to be reported in subsequent quarters as recoveries were made, Federal regulations require that identified overpayments be reported on the CMS-64 within 60 days of discovery. The State agency must report these overpayments immediately because it identified the overpayments more than 60 days ago.

The State agency did not provide adequate documentation to support how it arrived at the \$826,899 reported to date. The State agency must provide CMS with documentation supporting the adjustments. The additional \$2,947,207 in unreported overpayments identified in our review must be reported on the CMS-64 as well, and the Federal share must be refunded.

APPENDIX



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
BUREAU FOR MEDICAL SERVICES
Commissioner's Office
350 Capitol Street, Room 251
Charleston, West Virginia 25301-3706
Phone (304) 558-1700 Fax (304) 558-1509

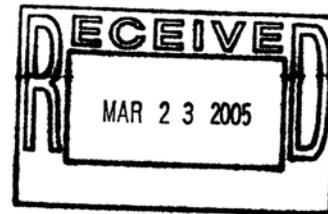
Joe Manchin III
Governor

Martha Yeager Walker
Secretary

March 18, 2005

Via Facsimile and Regular Mail

Stephen Virbitsky
Regional Inspector General for
Audit Services
Department of Health & Human Services
Office of Inspector General
Office of Audit Services
150 S Independence Mall West, Suite 316
Philadelphia, Pennsylvania 19106-3499



RE: Report Number A-03-04-00207

Dear Mr. Virbitsky:

Listed below is West Virginia's response to the recommendations of the Department of Health and Human Services, Office of Inspector General's recommendations to the draft report entitled "Review of West Virginia's Accounts Receivable System for Medicaid Provider Overpayments."

1. Include unreported overpayments totaling \$3,774,106 on the CMS-64 and refund to the Federal Government \$2,940,469 representing the Federal share.

Response: The Bureau for Medical Services (Bureau) agrees that it delayed reporting certain overpayments to the Federal Government. The delay was due to the Bureau's initiating a new MMIS system and anticipating that this system would streamline the overpayment reporting process. Unforeseen difficulties occurred that delayed this process. However, overpayments were returned in the following manner for any amount identified as an overpayment through review efforts of the Office of Surveillance and Utilization Review. These were the overpayments identified as not returned in the OIG's report.

If the overpayment was refunded through issuance of a check, the collections were netted against the current quarter expenditures reported in Section B, Line 6 of the form CMS 64. If the overpayment was collected through a

Stephen Virbitsky
Page Two
March 18, 2005

recoupment on the provider's account, an adjustment to the current quarter expenditures was made and the amount returned as a 9D collection. Both methods effectively returned the collected amounts. The Bureau acknowledges that some overpayments were not refunded timely (within the sixty [60] day reporting requirement) and some of the amounts were not refunded in full during the period of review. However, collections for overpayments identified in the review period continued to be returned in subsequent quarters as recoveries were made using this methodology. Bureau staff are revising the spread sheets and will deal directly with CMS on the methodology and resulting overpayment amount.

In recognition of this liability, the department has returned an estimated amount of \$350,000 for FFY 2003 and \$350,000 for FFY 2004 on the report filed for the quarter ending March 31, 2004. An additional adjustment of \$126,899 was returned on the report filed for quarter ending June 30, 2004. Attached for your review are the narratives filed and certified for each respective quarter.

2. Determine the value of overpayments identified after our audit period that have not been reported and include them on the CMS-64.

Response: The Bureau is reconciling the overpayments identified in subsequent periods to the amounts previously returned and will adjust the amount accordingly.

3. Ensure all future overpayments are reported within sixty (60) days in accordance with Federal regulations thereby mitigating the potentially higher interest expense to the Federal Government.

Response: West Virginia concurs that we will ensure all future overpayments are reported within sixty (60) days in accordance with Federal regulations thereby mitigating the potentially higher interest expense to the Federal Government.

Sincerely,



Nancy V. Atkins, MSN, RNC, NP
Commissioner

NVA :lsc
Enclosures

cc: Nora Antlake
Tina Bailes
Debbie McGinnis