

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Inspector General
Office of Audit Services



REGION IV
61 Forsyth Street, S.W., Suite 3T41
Atlanta, Georgia 30303

OCT 31 2002

CIN: A-04-01-05011

Dr. Rhonda Medows, Secretary
Agency for Health Care Administration
2727 Mahan Drive, Mail Stop 1
Tallahassee, Florida 32308

Dear Dr. Medows:

Enclosed are two copies of the U.S. Department of Health and Human Services, (HHS) Office of Inspector General, Office of Audit Services' final report entitled ***Review of Medicaid Payments for Outpatient Services and Prescription Drugs Provided to Incarcerated Recipients in the State of Florida.*** A copy of this report will be forwarded to the action official below for review and any action deemed necessary.

In written comments, the State of Florida generally concurred with our recommendations and agreed to take corrective actions. The state's comments are included as an appendix to our report.

Please send us your final management decision, including any action plan, as appropriate, within 60 days. If you have any questions or comments about this report, please do not hesitate to call me or Mary Ann Moreno, Audit Manager, at (305) 536-5309 extension 24 or through e-mail at mmoreno@oig.hhs.gov. To facilitate identification, please refer to report number A-04-01-05011 in all correspondence.

Sincerely yours,

A handwritten signature in cursive script that reads "Charles J. Curtis".

Charles J. Curtis
Regional Inspector General
for Audit Services, Region IV

Enclosures -- as stated

Page 2 – Dr. Rhonda Medows

HHS Action Official

Dale Kendrick

Associate Regional Administrator,

Centers for Medicare and Medicaid Services

Division of Financial Management and Program Initiatives

61 Forsyth Street, S.W., Suite 4T20

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Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**REVIEW OF MEDICAID PAYMENTS
FOR OUTPATIENT SERVICES AND
PRESCRIPTION DRUGS PROVIDED TO
INCARCERATED RECIPIENTS IN THE
STATE OF FLORIDA**



JANET REHNQUIST
Inspector General

OCTOBER 2002
A-04-01-05011



REGION IV
Room 3T41
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8909

OCT 31 2002

CIN: A-04-01-0501 1

Dr. Rhonda Medows, Secretary
Agency for Health Care Administration
2727 Mahan Drive, Mail Stop 1
Tallahassee, Florida 32308

Dear Dr. Medows:

This final report provides you with the results of an Office of Inspector General, Office of Audit Services' review entitled, *Review of Medicaid Payments for Outpatient Services and Prescription Drugs Provided to Incarcerated Recipients in the State of Florida*.

EXECUTIVE SUMMARY

OBJECTIVE

The objective of our review was to determine the extent to which the state used Medicaid funds to pay for prescription drugs and other (non-inpatient/long term care) health care services provided to inmates. Our review covered Medicaid fee-for-service claims paid by Florida during the period October 1, 1998 through September 30, 2001.

FINDINGS

Our review indicated that the State of Florida made unallowable payments resulting in an estimated Medicaid overpayment of \$2,597,773 (\$1,450,077 federal share').

The overstatement occurred because the state did not fully utilize the available data from the Social Security Administration (SSA) to identify incarcerated recipients. Our review showed that 7 claims of the 100 in our sample were for services provided to recipients who were incarcerated in federal, state, county, or mental health facilities on the date of service. These claims were unallowable because under Centers for Medicare & Medicaid Services (CMS) current policy federal financial participation (FFP) is not available for outpatient services and prescription drugs provided to incarcerated recipients.

¹ Our audit universe covered three fiscal years. The federal financial participation rate used was 55.82 percent, the lowest of the rates in effect during the 3-year period.

RECOMMENDATIONS

We are recommending that the state:

- 1) refund to CMS \$1,450,077 representing the federal share of the unallowable payments, and
- 2) utilize the data available from SSA to identify incarcerated recipients to ensure that unallowable payments for services provided to inmates are not made in the future.

In their written response to our draft report, the State of Florida acknowledged improper payments and has initiated efforts to recoup the funds; however, they believe the state should not be responsible for two of the seven payments included in the calculation representing the federal share of unallowable payments. The payments were made prior to their agency receiving the incarceration data and supplemental security income (SSI) cancellation notification from SSA. The State of Florida concurred with the recommendation to utilize the incarceration data available from SSA. The complete text of the State of Florida's comments is included as Appendix B to this report.

We concede that the State of Florida cannot determine the SSI ineligibility and incarceration status of its recipients until notification from SSA. However, upon determination of ineligibility the state should have made the necessary retroactive adjustments. As illustrated in the *Background* section of this report, FFP is not available to incarcerated recipients.

Glossary of Abbreviations and Acronyms

CFR	Code of Federal Regulations
CMS	Centers for Medicare & Medicaid Services
FFP	Federal financial participation
HHS	Department of Health and Human Services
MSIS	Medicaid Statistical Information System
SSA	Social Security Administration
SSI	Supplemental Security Income

INTRODUCTION

BACKGROUND

During a prior audit entitled, *Review of Medicare Payments for Services Provided to Incarcerated Beneficiaries* (A-04-00-05568), we determined that CMS had not obtained recipient data from the SSA that identified incarcerated recipients. As a result, potentially improper Medicare payments were made by CMS. Based on this work, we undertook a review of Medicaid fee-for-service payments for services provided to incarcerated recipients in four states to determine if state Medicaid programs have similar vulnerabilities. The State of Florida was one of the four states selected for review.

Generally, national Medicaid policy states that Medicaid FFP will not be paid for inmates. The CMS policy, based on Section 1905 of the Social Security Act, is that FFP is not available for services provided to inmates except when the inmate is transferred from the prison grounds to an inpatient facility for medical treatment.

Section 1905. [42 U.S.C. 1396d] For purposes of this title –

- (a) The term “medical assistance” means payment of part or all of the cost of the following care and services...for individuals, and, with respect to physicians’ or dentists’ services, at the option of the State, to individuals...not receiving aid or assistance under any plan of the State approved under Title I, X, XIV, or XVI, or Part A of Title IV, and with respect to whom supplemental security income benefits are not being paid under title XVI, who are...

Except as otherwise provided in paragraph (16), such term does not include –

- (A) *any such payments with respect to care or services for any individual who is an inmate of a public institution (except as a patient in a medical institution)*
[Emphasis added]; or...

Additional federal criteria can be found at 42 Code of Federal Register (CFR) 435.1008 and 42 CFR 435.1009.

42 CFR 435.1008 Institutionalized individuals.

- (a) FFP is not available in expenditures for services provided to—

- (1) Individuals who are inmates of public institutions as defined in §435.1009...

42 CFR 435.1009 Definitions relating to institutional status.

Inmate of a public institution means a person who is living in a public institution. An individual is not considered an inmate if—

- (a) he is in a public educational or vocational training institution for purposes of securing education or vocational training; or
- (b) he is in a public institution for a temporary period pending other arrangements appropriate to his needs.

Public institution means an institution that is the responsibility of a governmental unit or over which a governmental unit exercises administrative control. The term “public institution” does not include

- (a) a medical institution as defined in this section;
- (b) an intermediate care facility as defined in §§440.140 and 440.150 of this chapter;
- (c) a publicly operated community residence that serves no more than 16 residents, as defined in this section; or
- (d) a child-care institution as defined in section ...

On December 12, 1997, CMS issued a letter to all Associate Regional Administrators clarifying CMS’ Medicaid coverage policy for inmates of a public institution. In that guidance, CMS lists situations where FFP would and would not be available for services provided to inmates. According to this CMS guidance, FFP would be available for services provided to “inmates who become a patient of a hospital, nursing facility, juvenile psychiatric facility or intermediate care facility for the mentally retarded (**Note:** subject to meeting other requirements of the Medicaid program).”

States are required to describe the nature and scope of their programs in comprehensive written plans submitted to CMS. Federal funding is contingent on CMS’ approval of the plans. The CMS determines if the Medicaid plans meet all applicable federal laws and regulations.

OBJECTIVE, SCOPE, AND METHODOLOGY

The objective of our review was to determine the extent to which the State of Florida used Medicaid funds to pay for prescription drugs and other (non-inpatient/long term care) health care services provided to inmates. Our review covered Medicaid fee-for-service claims paid by Florida during the period October 1, 1998 through September 30, 2001.

We conducted our review in accordance with generally accepted government auditing standards. Our review was limited in scope. It was not intended to be a full-scale internal control assessment of the Medicaid agency operations. The objectives of our audit did not require an understanding or assessment of the overall internal control structure of the agency.

To perform our review, we compared a file of incarcerated individuals provided by SSA to CMS's Medicaid Statistical Information System (MSIS) file of claims for outpatient and prescription drugs paid October 1, 1998 through September 30, 2001. Based on this comparison, we compiled a database of claims paid on behalf of individuals who had been identified as incarcerated at the time the Medicaid service was rendered. The comparison of claims resulted in a universe of 1,445,684 paid claims totaling \$164,052,544. Using this universe, we selected a random sample of 100 Medicaid fee-for-service paid claims totaling \$12,124.

For each sample claim, we validated the data contained in MSIS to the state's MSIS or paid claims history file. We then determined when and where the recipient was incarcerated. For the most part, the incarceration data from SSA does not identify the prisoner release date. Thus, several steps were performed to determine if the Medicaid payment was made for a service provided during a period of incarceration.

The steps followed included:

- telephoning the contact (if shown in the SSA database) to inquire about the recipient;
- utilizing internet sites containing state and federal prisoner databases;
- contacting the state's Medicaid Fraud Control Unit to obtain incarceration information from the state's Department of Law Enforcement; and
- determining where the health care providers who billed for the Medicaid services were located and contacting county and local jails in the surrounding area.

The results of our unrestricted random sample were extrapolated to the sample population to identify the state's unallowable claims. For our estimation methodology see Appendix A.

We performed our review during the period October 2001 through August 2002. The work was performed at the Medicaid offices in Tallahassee and Jacksonville, Florida. Additional work was performed at the Medicaid Fraud Control Unit in Tallahassee and at the Office of Inspector General, Office of Audit Services in Jacksonville, Florida.

FINDINGS AND RECOMMENDATIONS

We found that Medicaid fee-for-service payments for outpatient services and prescription drugs were made for incarcerated recipients. The paid claims were for services, which did not meet reimbursement requirements, resulting in an estimated Medicaid overpayment of \$2,597,773 (\$1,450,077 federal share).

Generally, national Medicaid policy states that Medicaid FFP will not be paid for inmates. The CMS policy is that FFP is not available for services provided to inmates except when the inmate

is transferred from the prison grounds to an inpatient facility for medical treatment. The CMS' current policy is based on Section 1905 of the Social Security Act, in particular Section 1905 (a).

Our review showed that 7 claims of the 100 in our sample were for services provided to recipients who were incarcerated in federal, state, county, or mental health facilities on the date of service. These claims were unallowable because under CMS' current policy FFP is not available for outpatient services and prescription drugs provided to incarcerated recipients.

The following table summarizes the results of our review:

<i>Description</i>	<i>Sample Amount</i>	<i>Number of Claims</i>	<i>Number of Recipients</i>
<i>Allowable</i>	\$11,273	93	92
<i>Unallowable</i>	851	7	7
<i>Total</i>	\$12,124	100	99

The state made improper payments for outpatient services and prescription drugs. The payments were made on behalf of incarcerated recipients. In our opinion, the claims were paid because the state did not fully utilize the available data from SSA to identify incarcerated recipients.

We recommend that the state:

- (1) refund to CMS \$1,450,077 representing the federal share of the unallowable payments, and
- (2) utilize the data available from SSA to identify incarcerated recipients to ensure that unallowable payments for services provided to inmates are not made in the future.

AUDITEE'S COMMENTS

In their written response dated October 16, 2002, the State of Florida acknowledged that improper payments were made and efforts have been initiated to recoup the funds; however, the state officials do not believe two of the seven payments should be included in the calculation representing the federal share of unallowable payments. Notification from SSA (incarceration and SSI cancellation) was not received by the state until after the two payments were processed; therefore, they should not be held responsible.

The state concurs with the recommendation to utilize the data available from SSA in identifying incarcerated recipients. The state agencies, Agency for Health Care Administration and Department of Children and Families have taken measures to ensure removal of incarcerated recipients from their database(s). The State of Florida's response is included in its entirety as Appendix B to this report.

recipients from their database(s). The State of Florida's response is included in its entirety as Appendix B to this report.

OIG RESPONSE

We recognize that the SSA notifications of incarceration for two Medicaid recipients were subsequent to the payments by the state; however, retroactive adjustments should have been made by the state.

The recipients were incarcerated on the Medicaid dates of service; therefore, FFP was not available. Thus, the State of Florida owes CMS \$1,450,077 for the federal share of the unallowable payments.

* * * * *

Final determination as to actions taken on all matters reported would be made by the Department of Health and Human Services (HHS) action official named on the second page of the letter preceding this report. We request that you respond to the HHS action official within 60 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.

Sincerely yours,



Charles J. Curtis
Regional Inspector General
for Audit Services, Region IV

Enclosures – as stated

APPENDICES

**Review of Medicaid Payments for Outpatient Services and Prescription Drugs to
 Provided to Incarcerated Recipients - State of Florida
 CIN: A-04-01-05011
 Sample Methodology Results and Projection**

Objective:

To determine the extent to which the State of Florida used Medicaid funds to pay for prescription drugs and other (non-inpatient/long term care) health care services provided to inmates.

Population:

The universe consists of 1,445,684 Medicaid fee-for-service claims with payments totaling \$164,052,544 for prescription drug and other (non-inpatient/long term care) health care services provided to beneficiaries during incarceration.

Sampling Unit:

The sampling unit is a Medicaid paid claim.

Sample Design:

The sample design was a simple random sample design.

Sample Size:

A sample size of 100 claims was used.

Estimation Methodology:

We computed the amount of error by determining the dollar amounts erroneously billed to Medicaid in our sample. We then used the Office of Audit Services statistical software for unrestricted variable appraisal sampling to project the amount of error from the sample. We estimated the overpayment and recommended recovery at the lower limit of 90 percent confidence interval.

<u>Variable Projection</u>	<u>Overpayment</u>
Point Estimate	\$12,302,771
90 % Confidence Interval	
Lower Limit	\$2,597,773
Upper Limit	\$22,007,768



JEB BUSH, GOVERNOR

RHONDA M. MEDOWS, MD, FFAFP, SECRETARY

October 16, 2002

Mr. Charles J. Curtis
Office of the Inspector General
Office of Audit Services - Region IV
61 Forsyth Street, S.W., Suite 3T4
Atlanta, Georgia 30303

RE: CIN A-04-01-05011

Dear Mr. Curtis:

Thank you for the opportunity to respond to the U.S. Department of Health and Human Services Office of the Inspector General, draft report *Review of Medicaid Payments for Outpatient Services and Prescription Drugs Provided to Incarcerated Recipients in the State of Florida*, dated August 28, 2002. Each of the report recommendations and the Agency's response follows:

Recommendation 1:

We recommend that the state refund to CMS \$1,450,077 representing the federal share of the unallowable payments.

Agency Response:

The Agency for Health Care Administration acknowledges that improper payments were made based on your sample data and for those payments we have initiated efforts to recoup the funds. However, we believe that the Agency should not be held responsible for two of the seven payments included in the overpayment calculation.

Our research of the seven payments determined to be errors by your auditors revealed that five were for Supplemental Security Income (SSI) recipients. For SSI recipient eligibility status the Agency must rely on automated data provided by the Social Security Administration (SSA). For two of the five SSI recipients we have determined that payments were made prior to the agency receiving the incarceration data from the SSA.

The details of these two payments are:

<u>Recipient ID</u>	<u>Date of Payment</u>	<u>Dates Of Service</u>	<u>Payment Type</u>	<u>Date of SSA Notification of Incarceration</u>
1782086102	8/2/2000	8/1-31/2000	HMO Capitation	12/26/2000
8143474046	8/2/2000	8/1-31/2000	HMO Capitation	8/30/2000



Mr. Charles J. Curtis
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APPENDIX B
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We would like to note that HMO enrollment is determined on the third weekend of the month prior to the month of coverage. Because in these two instances the Agency had not received a cancellation notice from the SSA indicating incarceration by the time enrollment was determined (July 22), we do not believe that these payments should be considered as errors made by the Agency.

Recommendation 2:

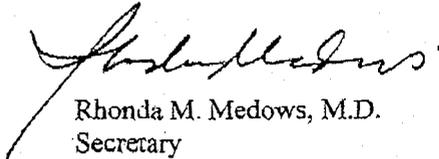
We recommend that the state utilize the data available from the SSA to identify incarcerated recipients to ensure that unallowable payments for services provided to inmates are not made in the future.

Agency Response:

The State concurs with this recommendation and has taken steps to ensure that it removes recipients from its active file once we receive a cancellation notice from the SSA. Our sister agency, the Department of Children and Families, is also performing quarterly cross matches with the SSA's prisoner database and will notify the Agency on any matches it identifies through data transfers that are made between the two agencies.

If you have any questions regarding this response, please contact Rufus Noble at (850) 921-4897 or Kathy Donald at (850) 922-8448.

Sincerely,



Rhonda M. Medows, M.D.
Secretary

RMM/kd

ACKNOWLEDGMENTS

This report was prepared under the direction of Charles J. Curtis, Regional Inspector General for Audit Services, Region IV. Other principal Office of Audit Services staff who contributed include:

Mary Ann Moreno, *Audit Manager*

Timothy Crye, *Senior Auditor*

Bernard Rach, *Senior Auditor*

Nivee Woodard, *Auditor-in-Charge*

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Gus George, *Advanced Audit Techniques*

For information or copies of this report, please contact the Office of Inspector General's Public Affairs office at (202) 619-1343.