



DEPARTMENT OF HEALTH AND HUMAN SERVICES
OFFICE OF AUDIT SERVICES
233 NORTH MICHIGAN AVENUE
CHICAGO, ILLINOIS 60601

REGION V
OFFICE OF
INSPECTOR GENERAL

January 10, 2008

Report Number: A-05-07-00023

Mr. Cal Ludeman
Commissioner
Minnesota Department of Human Services
P.O. Box 64998
St. Paul, Minnesota 55164-0998

Dear Mr. Ludeman:

Enclosed is the U.S. Department of Health and Human Services (HHS), Office of Inspector General (OIG) final report entitled "Review of Section 1915(c) Mental Retardation or Related Condition Waiver Services at Dungarvin Minnesota From July 1, 2004, Through June 30, 2005." 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 Lynn Barker, Audit Manager, at (317) 226-7833, extension 21 or through e-mail at Lynn.Barker@oig.hhs.gov. Please refer to report number A-05-07-00023 in all correspondence.

Sincerely,

A handwritten signature in black ink, appearing to read "Marc Gustafson".

Marc Gustafson
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
Chicago, Illinois 60601

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**REVIEW OF SECTION 1915(c)
MENTAL RETARDATION OR
RELATED CONDITION
WAIVER SERVICES AT
DUNGARVIN MINNESOTA
FROM JULY 1, 2004, THROUGH
JUNE 30, 2005**



Daniel R. Levinson
Inspector General

January 2008
A-05-07-00023

Office of Inspector General

<http://oig.hhs.gov>

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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

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 and 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 Federal requirements.

Section 1915(c) of the Act authorizes Medicaid Home and Community-Based Services (HCBS) waiver programs. A State's HCBS waiver program must be approved by CMS and allows the State to claim Federal reimbursement for those services not usually covered by Medicaid. These HCBS are generally delivered to Medicaid-eligible beneficiaries in a home or community-based setting instead of an institutional setting.

The Minnesota Department of Human Services (State agency) provides oversight for Minnesota's Medicaid program, known as Medical Assistance, for compliance with Federal requirements. The Mental Retardation or Related Condition (MRRC) waiver program is one of five CMS approved Section 1915(c) HCBS waivers that receive Federal reimbursement for Minnesota. The State agency's Disability Services Division monitors the MRRC waiver program, and the county social service agencies (county offices) administer the program.

The State agency claimed Federal reimbursement totaling \$421 million for services provided by 1,361 providers under the MRRC waiver program during State fiscal year (SFY) 2005 (July 1, 2004 through June 30, 2005). During this time, Dungarvin Minnesota (Dungarvin) received Medicaid reimbursement totaling \$13.9 million (\$6.9 million Federal share), which was the most paid to any provider under the MRRC waiver program.

OBJECTIVE

Our objective was to determine whether the State agency's claim for Medicaid reimbursement for MRRC waiver services provided by Dungarvin during SFY 2005 complied with Federal and State requirements.

SUMMARY OF FINDINGS

During SFY 2005, we estimate the State agency claimed \$602,002 (\$301,001 Federal share) for Medicaid reimbursement paid to Dungarvin for MRRC waiver services that did not comply with Federal or State requirements. For 85 of 100 sampled beneficiary-months, the State agency accurately claimed Medicaid reimbursement for waiver services. However, the State agency claimed Medicaid reimbursement for services that

were unallowable for 15 beneficiary-months because the services were not documented in accordance with Federal or State requirements. Specifically, the State agency claimed Medicaid reimbursement for services in:

- 8 beneficiary-months when the individual service plans (ISP), which included the plans of care, could not be located at Dungarvin or the Hennepin county office;
- 4 beneficiary-months when in-home services were not adequately documented to support that Dungarvin provided the services; and
- 3 beneficiary-months when supplemental habilitation services were not adequately documented to support that Dungarvin provided the services.

The claims for unallowable services were made because Dungarvin and the Hennepin county office did not have adequate internal controls to ensure its HCBS documentation complied with Federal and State requirements.

RECOMMENDATIONS

We recommend the State agency:

- refund \$301,001 to the Federal Government,
- require the Hennepin county office to strengthen its internal controls to ensure that it
 - maintains ISPs in accordance with Federal and State requirements and
 - provides current ISPs to Dungarvin, and
- require Dungarvin to strengthen its internal controls to ensure that it
 - maintains ISPs, which includes the plans of care, in accordance with Federal and State requirements and
 - documents and claims reimbursement for MRRC waiver services actually provided in accordance with Federal and State requirements.

STATE AGENCY'S COMMENTS AND OFFICE OF INSPECTOR GENERAL'S RESPONSE

In written comments to our draft report, the State agency did not address our first recommendation. The State agency stated that it will review the unsupported claim payments to determine the reason(s) for the lack of documentation and develop a plan of correction. The State agency stated that Hennepin County and Dungarvin will be

required to provide plans of correction and timetables to implement their corrective actions.

We continue to recommend that the State agency refund \$301,001 to the Federal Government.

The State agency's comments are included in their entirety as Appendix B.

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INTRODUCTION

BACKGROUND

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 and 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 Federal requirements. The Minnesota Department of Human Services (State agency) provides oversight of Minnesota's Medicaid program, known as Medical Assistance, for compliance with Federal requirements.

1915(c) Waivers

Section 1915(c) of the Act authorizes Medicaid Home and Community-Based Services (HCBS) waiver programs. A State's HCBS waiver program must be approved by CMS and allows the State to claim Federal reimbursement for those services not usually covered by Medicaid. HCBS are generally provided to Medicaid-eligible beneficiaries in a community rather than an institutional setting. With CMS approval and pursuant to section 1915(c)(4)(B), States determine the services that may be provided under the waiver program including:

. . . case management services, homemaker/home health aide services and personal care services, adult day health services, habilitation services, respite care, and such other services requested by the State as the Secretary may approve and for day treatment or other partial hospitalization services, psychosocial rehabilitation services, and clinic services (whether or not furnished in a facility) for individuals with chronic mental illness.

Minnesota's Mental Retardation or Related Condition Waiver

In Minnesota, the Mental Retardation or Related Condition (MRRC) waiver program is one of five Section 1915(c) HCBS waivers that receive Federal reimbursement and are approved by CMS. The State agency's Disability Services Division monitors the MRRC waiver program, and the county social service agencies (county offices) administer the program. The MRRC waiver allows the State agency to claim Medicaid reimbursement for HCBS provided to individuals with mental retardation or related conditions in a home or community setting instead of an institutional setting. The State agency claimed Federal reimbursement totaling \$421 million for HCBS provided by 1,361 providers under the MRRC waiver program during State fiscal year (SFY) 2005 (July 1, 2004 through June 30, 2005).

Dungarvin Minnesota

Dungarvin Minnesota (Dungarvin), under contracts with several Minnesota counties, provided HCBS to 258 individuals during SFY 2005. During this time, Dungarvin received Medicaid reimbursement totaling \$13.9 million (\$6.9 million Federal share), which was the most paid to any provider under the MRRC waiver program.

This review of the State agency's claim for reimbursement for HCBS at Dungarvin is the first in a series of reports regarding Minnesota's claims for HCBS.

OBJECTIVE, SCOPE, AND METHODOLOGY

Objective

Our objective was to determine whether the State agency's claim for Medicaid reimbursement for MRRC waiver services provided by Dungarvin during SFY 2005 complied with Federal and State requirements.

Scope

Our review covered the State agency's claims for Medicaid reimbursement for HCBS provided by Dungarvin under the MRRC waiver program for SFY 2005. The State agency claimed \$13.9 million (\$6.9 million Federal share) for services provided by Dungarvin during 2,818 beneficiary-months¹ for this period. The scope of our audit did not include a medical review or an evaluation of the medical necessity for the services that Dungarvin provided and claimed reimbursement.

We did not assess the State agency's overall internal controls. We limited our review to gaining an understanding of the State agency's controls related to Medicaid claims and payments and to the operation of the MRRC waiver program. We reviewed Dungarvin's internal controls for providing, documenting, and claiming reimbursement for HCBS. We did not review the propriety of HCBS payment rates.

We performed fieldwork at Dungarvin in Mendota Heights, Minnesota, from May through October 2007. Additional fieldwork was performed at the State agency in St. Paul, Minnesota, and Anoka, Hennepin, McLeod, Ramsey, and St. Louis counties in Minnesota.

¹A beneficiary-month includes all HCBS for a beneficiary for one month. The beneficiary-month can include multiple services.

Methodology

To accomplish our objective, we:

- reviewed Federal and State laws, Medicaid HCBS waiver regulations, the CMS “State Medicaid Manual,” the Minnesota Disability Services Program Manual, and the CMS approved MRRC waiver;
- interviewed CMS, State agency, applicable county offices, and Dungarvin officials regarding the waiver policies, procedures, and documentation requirements for the MRRC waiver program;
- reconciled the MRRC waiver services claimed for Federal reimbursement by the State agency on the Quarterly Medicaid Statement of Expenditures for the Medical Assistance Program (the Form CMS-64) to accounting records for four providers, including Dungarvin, for the quarter ended March 2005;
- analyzed the State agency’s SFY 2005 payments to MRRC service providers and identified Dungarvin as receiving the most reimbursement;
- selected an unrestricted random sample of 100 beneficiary-months from the population of all HCBS claimed and paid to Dungarvin for services provided to beneficiaries under the MRRC waiver during SFY 2005 and:
 - reviewed the supporting documentation including individual service plans (ISP), program notes, health care notes, annual plans, risk plans, employee timesheets, medical administration records, and outcome support plan reports;
 - verified services were paid appropriately based on beneficiaries’ service agreements provided by the State agency;
 - verified claimed services by procedure code were included in the approved waiver application;
 - confirmed the beneficiaries’ Medicaid eligibility for the services;
 - determined whether the staff that provided the services were qualified and met annual training requirements;
 - requested individual service plans not available in Dungarvin’s files from selected county offices that administered the MRRC waiver program;
 - identified any services that were not provided or documented in accordance with applicable criteria; and

- projected the results of our sample review to the sample population of beneficiary-months (see Appendix A).

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

During SFY 2005, we estimate the State agency claimed \$602,002 (\$301,001 Federal share) for Medicaid reimbursement paid to Dunganvin for MRRC waiver services that did not comply with Federal or State requirements. For 85 of 100 sampled beneficiary-months, the State agency accurately claimed Medicaid reimbursement for waiver services. However, the State agency claimed Medicaid reimbursement for services that were unallowable for 15 beneficiary-months because the services were not adequately documented in accordance with Federal or State requirements. Specifically, the State agency claimed Medicaid reimbursement for service in:

- 8 beneficiary-months when the ISPs, which included the plans of care, could not be located at Dunganvin or the Hennepin county office;
- 4 beneficiary-months when in-home services were not adequately documented to support that Dunganvin provided the services; and
- 3 beneficiary-months when supplemental habilitation services were not adequately documented to support that Dunganvin provided the services.

The claims for unallowable services were made because Dunganvin and the Hennepin county office did not have adequate internal controls to ensure HCBS documentation complied with Federal and State requirements.

WAIVER REQUIREMENTS

HCBS program requirements are contained in Federal law, a CMS program manual, the CMS-approved MRRC waiver, the Minnesota Statute, and a Minnesota Disability Services Program Manual.

Federal Law

Federal regulations require that HCBS are furnished under a written plan of care subject to approval by the State agency (42 CFR § 441.301(b)(1)(i)). Further, Federal

regulations state that costs must be adequately documented in order to be allowable under Federal awards (2 CFR § 225, Appendix A (C.1.j.)).

Centers for Medicare & Medicaid Services Program Manual

Section 2500.2 of the CMS “State Medicaid Manual,” instructs States to:

Report only expenditures for which all supporting documentation, in readily reviewable form, has been compiled and which is immediately available when the claim is filed. Your supporting documentation includes as a minimum the following: date of service, name of recipient, Medicaid identification number, name of provider agency and person providing the service, nature, extent, or units of service, and the place of service. (Emphasis in the original.)

Section 4442.6 of the CMS “State Medicaid Manual,” states that an assessment of the individual to determine the services needed to prevent institutionalization must be included in the plan of care. It further explains that the plan of care must specify the medical and other services to be provided, their frequency, and the type of provider and that no Federal financial participation is available for HCBS waiver services furnished without a written plan of care.

CMS-Approved MRRC Waiver

Minnesota’s HCBS waiver states that each beneficiary will have a plan of care, which will be updated every 12 months. The individual plan of care is included in the documentation of the ISP. The case managers at county offices are responsible for maintaining the ISPs for a minimum period of three years.

Minnesota Statute

Minnesota Statute Chapter 256B.092, subdivision 1b(8), requires that the ISPs must be agreed upon and signed by the beneficiary, the beneficiary’s legal guardian, or the parent if the person is a minor, and the authorized county representative.

Minnesota Statute Chapter 245B.07, subdivision 1(3), provides that the license holder (provider) shall make a written request to the county case manager to provide a copy of the individual service plan, when a case manager does not provide a current individual service plan.

Minnesota Statute Chapter 256B.05, subdivision 1, states that the county agencies shall administer medical assistance in their respective counties under the supervision of the State agency and the commissioner of human services and shall make reports and keep such records and accounts in relation to medical assistance as required by the State agency.

Minnesota Disability Services Program Manual

The Minnesota Disability Services Program Manual² explains that the Disability Services Division is responsible to centrally manage county administration of the programs for statewide consistency and compliance with Federal standards and monitor program activity to assure the integrity of services and standards.

In addition, the local county administration, acting as agents for the State Medicaid agency, is responsible for case management and service coordination for persons receiving services including assessment and service plan development.

UNALLOWABLE HOME AND COMMUNITY-BASED WAIVER SERVICES

Unallowable Payments

Of the 100 sampled beneficiary-months, services, totaling \$43,938 and provided during 15 beneficiary-months, were unallowable because Dungarvin did not meet documentation requirements or provide the service. Specifically, the State agency and Dungarvin claimed Medicaid reimbursement for services totaling:

- \$39,668 during 8 beneficiary-months when the ISPs, which included the plans of care, could not be located at Dungarvin or the Hennepin county office. While Dungarvin did make a written request for the ISPs to the county office for five of the ISPs, Dungarvin did not receive the ISPs. Dungarvin did not make a written request to the county office for the other three. The ISPs and plans of care must be maintained to determine the appropriateness and adequacy of the services provided.
- \$4,082 during 4 beneficiary-months for services not provided. Dungarvin's employee timesheets and services documentation did not adequately support that in-home services were actually provided.
- \$188 during 3 beneficiary-months for services not provided. Dungarvin's employee timesheets and services documentation did not adequately support that supplemental habilitation services were actually provided for the claimed services dates.

Hennepin County Office Internal Controls

The Hennepin county office did not have adequate internal controls to ensure compliance with Federal and State HCBS requirements. Specifically, Hennepin county did not maintain or provide all ISPs to Dungarvin in accordance with Federal and State requirements.

²The Minnesota Disability Services Program Manual is an on-line manual at http://www.dhs.state.mn.us/main/idcplg?IdcService=GET_DYNAMIC_CONVERSION&RevisionSelectionMethod=LatestReleased&dDocName=id_000852 (date accessed 4/27/07).

Dungarvin Internal Controls

Dungarvin did not have adequate internal controls to ensure its HCBS documentation complied with Federal and State requirements. Specifically, Dungarvin did not implement internal controls to ensure it maintained ISPs for each beneficiary and that it adequately documented in-home and supplemental services claimed for reimbursement.

RECOMMENDATIONS

We recommend the State agency:

- refund \$301,001 to the Federal Government,
- require the Hennepin county office to strengthen its internal controls to ensure that it
 - maintains ISPs in accordance with Federal and State requirements and
 - provides current ISPs to Dungarvin, and
- require Dungarvin to strengthen its internal controls to ensure that it
 - maintains ISPs, which included the plans of care, in accordance with Federal and State requirements and
 - documents and claims reimbursement for MRRC waiver services actually provided in accordance with Federal and State requirements.

STATE AGENCY'S COMMENTS AND OFFICE OF INSPECTOR GENERAL'S RESPONSE

In written comments to our draft report, the State agency did not address our first recommendation. The State agency stated that it will review the unsupported claim payments to determine the reason(s) for the lack of documentation and develop a plan of correction. The State agency stated that Hennepin County and Dungarvin will be required to provide plans of correction and timetables to implement their corrective actions.

We continue to recommend that the State agency refund \$301,001 to the Federal Government.

The State agency's comments are included in their entirety as Appendix B.

APPENDIXES

SAMPLING METHODOLOGY AND RESULTS

POPULATION

The sample population consisted of 2,818 beneficiary-months of service where Dungarvin received Medicaid reimbursement totaling \$13,854,847 (\$6,927,423 Federal share) for MRRC waiver services provided to beneficiaries between July 1, 2004 and June 30, 2005. A beneficiary-month was defined as all services provided for one beneficiary for one month.

SAMPLE UNIT

The sampling unit was a beneficiary-month for which Dungarvin provided waiver services to a beneficiary and received Medicaid reimbursement from the State agency.

SAMPLE DESIGN

From the 2,818 beneficiary-months, we selected an unrestricted random sample of 100 beneficiary-months that included waiver services totaling \$489,966 (\$244,983 Federal share).

ESTIMATION METHODOLOGY

We used the Office of Audit Services statistical software, RAT-STATS variable appraisal program for a simple unrestricted sample to estimate the amount of waiver services claimed that did not comply with Federal and State requirements.

SAMPLE RESULTS AND PROJECTION

Of the 100 sampled recipient months, 15 beneficiary-months included unallowable waiver services totaling \$43,938 (\$21,969 Federal share). Using the lower limit of the 90 percent confidence interval, we estimate that State agency claimed \$301,001 in Federal reimbursement for waiver services provided during our audit period that did not comply with Federal and State requirements.

Estimate of Unallowable HCBS Waiver Costs - 90 percent Confidence Level

	<u>Total Unallowable</u>	<u>Federal Share</u>
Point Estimate	\$1,238,187	\$619,093
Lower Limit	\$602,002	\$301,001
Upper Limit	\$1,874,371	\$937,185
Precision Amount	\$636,184	\$318,092
Precision Percent	51.38%	51.38%



Minnesota Department of **Human Services**

December 21, 2007

Marc Gustafson
Regional Inspector General
for Audit Services
Department of Health and Human Services
Office of the Inspector General for Audit Services
Suite 1360, 233 North Michigan Avenue
Chicago, Illinois 60601

RE: Review of Section 1915(c) Mental Retardation or Related Condition Waiver Services at
Dungarvin Minnesota from July 1, 2004 through June 30, 2005

Audit Report Number A-05-07-00023

Dear Mr. Gustafson:

Thank you for the opportunity to review and comment on your report covering waiver services provided by Dungarvin, Inc., Minnesota. It is our understanding that our response will be published in the Office of the Inspector General's final audit report. We appreciated the effort of your staff in keeping the department informed of their progress during the audit. The report contained the following recommendations:

Recommendation #1: Refund to the Federal Government \$301,001.

Recommendation #2: Require Hennepin County to strengthen its internal controls to ensure it maintains ISPs in accordance with federal and state requirements and provides current Individual Service Plans (ISPs) to Dungarvin.

Recommendation #3: Require Dungarvin to strengthen its internal controls to ensure it maintains ISPs, which included the plans of care, in accordance with federal and state requirements and documentation to support claims reimbursement for MRRC waiver services actually provided in accordance with federal and state requirements.

Marc Gustafson
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December 21, 2007

To meet these recommendations, we will review the unsupported claim payments to determine the reason(s) for the lack of documentation and develop a plan of correction to address those reasons. We will also follow up with Hennepin County and Dungarvin, Inc. to address the recommendations pertaining to them in this report. They will be required to provide the department with their individual plans of correction and timetables to implement their corrective actions.

The Department of Human Service's policy is to follow-up on all audit findings to evaluate the progress being made to resolve them. Progress is monitored until full resolution has occurred. If you have any further questions, please contact David Ehrhardt, Internal Audit Director, at (651) 431 3619.

Sincerely,



Cal R. Ludeman
Commissioner

cc: Scott Nelson, HHS OIG