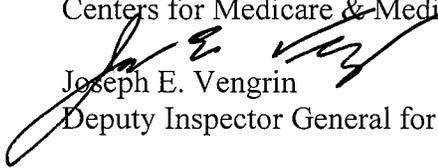




AUG 31 2006

TO: Mark B. McClellan, M.D. Ph.D.
Administrator
Centers for Medicare & Medicaid Services

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

SUBJECT: Review of Arkansas's Reporting of Medicaid Overpayments Collected by Contractors (A-06-06-00023)

Attached is an advance copy of our final report on the Arkansas Department of Health and Human Services's (the State agency) reporting of Medicaid overpayments collected by contractors. We will issue this report to the State agency within 5 business days.

We initiated this review as a result of a previous accounts receivable audit of the State agency. Unlike the overpayments identified in the previous audit, the overpayments in this report were neither identified directly by the State agency nor included in its accounts receivable system. State agency contractors collected and deposited the overpayments in a cash holding account. Medicaid requires States to clear cash holding accounts at the end of each quarter and to return the Federal share of the funds and the Federal share of any interest earned. States refund overpayments on the Quarterly Medicaid Statement of Expenditures for the Medical Assistance Program, Form CMS-64 (CMS-64).

Our objective was to determine whether the State agency reported overpayments collected by contractors in accordance with Federal requirements.

The State agency did not report overpayments collected by contractors in accordance with Federal requirements during the period October 1, 2000, through April 30, 2005. Specifically, the State agency did not report:

- \$3,657,402 (\$2,732,897 Federal share) in overpayments and
- \$6,575,449 (\$4,858,415 Federal share) in overpayments in a timely manner.

Also, the State agency did not report the Federal share of any interest earned on funds held in the cash holding account. Although the State agency had written procedures in place to report overpayments in cash holding accounts quarterly pursuant to Federal requirements, the State agency chose to report the overpayments annually.

We recommend that the State agency:

- include the \$3,657,402 in unreported overpayments on the CMS-64 and refund the \$2,732,897 Federal share;
- determine the Federal share of any interest earned on the \$10.2 million that was held, or still may be held, in the cash holding account and refund that amount on the CMS-64; and
- adhere to its written procedures for clearing cash holding accounts to ensure that all future overpayments are reported in accordance with Federal requirements.

In its comments on our draft report, the State agency agreed with our recommendations.

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 through e-mail at George.Reeb@oig.hhs.gov or Gordon L. Sato, Regional Inspector General for Audit Services, Region VI, at (214) 767-8414 or through e-mail at Gordon.Sato@oig.hhs.gov. Please refer to report number A-06-06-00023.

Attachment



DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Inspector General

SEP - 1 2006

Office of Audit Services
1100 Commerce, Room 632
Dallas, Texas 75242

Report Number: A-06-06-00023

Mr. John Selig
Director
Arkansas Department of Health and Human Services
Donaghey Plaza South, Slot S-201
P.O. Box 1437
Little Rock, Arkansas 72203-1437

Dear Mr. Selig:

Enclosed are two copies of the U.S. Department of Health and Human Services (HHS), Office of Inspector General (OIG) final report entitled "Review of Arkansas's Reporting of Medicaid Overpayments Collected by Contractors." A copy of this report will be forwarded 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 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), OIG reports issued to the Department's grantees and contractors are made available to the public to the extent the information is not subject to exemptions in the Act that the Department chooses to exercise (see 45 CFR part 5).

Please refer to report number A-06-06-00023 in all correspondence.

Sincerely yours,

A handwritten signature in black ink that reads "Gordon L. Sato".

Gordon L. Sato
Regional Inspector General
for Audit Services

Enclosures

Page 2 – Mr. John Selig

Direct Reply to HHS Action Official:

James R. Farris, M.D.
Regional Administrator
Centers for Medicare & Medicaid Services
U.S. Department of Health and Human Services
1301 Young Street, Room 714
Dallas, Texas 75202

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**REVIEW OF
ARKANSAS'S REPORTING OF
MEDICAID OVERPAYMENTS
COLLECTED BY CONTRACTORS**



Daniel R. Levinson
Inspector General

September 2006
A-06-06-00023

Office of Inspector General

<http://oig.hhs.gov>

The mission of the Office of Inspector General (OIG), as mandated by Public Law 95-452, as amended, is to protect the integrity of the Department of Health and Human Services (HHS) programs, as well as the health and welfare of beneficiaries served by those programs. This statutory mission is carried out through a nationwide network of audits, investigations, and inspections conducted by the following operating components:

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The Office of Audit Services (OAS) provides all auditing services for HHS, either by conducting audits with its own audit resources or by overseeing audit work done by others. Audits examine the performance of HHS programs and/or its grantees and contractors in carrying out their respective responsibilities and are intended to provide independent assessments of HHS programs and operations. These assessments help reduce waste, abuse, and mismanagement and promote economy and efficiency throughout HHS.

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The Office of Evaluation and Inspections (OEI) conducts national evaluations to provide HHS, Congress, and the public with timely, useful, and reliable information on significant issues. Specifically, these evaluations focus on preventing fraud, waste, or abuse and promoting economy, efficiency, and effectiveness in departmental programs. To promote impact, the reports also present practical recommendations for improving program operations.

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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 report focuses on Arkansas's reporting of Medicaid overpayments collected by State of Arkansas (the State) contractors. The overpayments consisted of hospital credit balances and third-party liability payments from commercial insurance carriers and other entities. We initiated this review because of a previous accounts receivable audit.¹ Unlike the overpayments identified in the previous audit report, the overpayments in this report were neither identified directly by the State nor included in its accounts receivable system. State contractors deposited these overpayments in a cash holding account designated by the State for this purpose.

Section 1903(d) of the Social Security Act (the Act) is the principal authority that the Centers for Medicare & Medicaid Services (CMS) cites in requiring States to refund the Federal share of overpayments. Section 1903(d)(2)(C) of the Act requires States to refund the Federal share of provider overpayments within 60 days of the date of discovery, whether or not the State has made a recovery. However, under section 1903(d)(2)(B) of the Act, third-party liabilities are not considered overpayments until the State has received payment from that third party. Therefore, States are required to refund the Federal share only after they have collected from the liable third parties. Regulations (42 CFR part 433, subparts D and F) address provider overpayments and payments from liable third parties.

Regulations (42 CFR § 433.320) and section 2500.6B of the "State Medicaid Manual" (Medicaid Manual) instruct States to refund the Federal share of collections and refunds from providers 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 expires. Similarly, section 2500.6B of the Medicaid Manual also states that third-party liabilities are to be refunded on the CMS-64 in the quarter in which they are collected. Section 2500.6D of the Medicaid Manual requires States to clear cash holding accounts at the end of each quarter and to return the Federal share of the funds and the Federal share of any interest earned.

We limited our review to the refunding requirements for collected overpayments held in cash holding accounts. Therefore, we treated any provider overpayments that would have been subject to the 60-day return required by 1903(d)(2)(C) of the Act the same as third-party liabilities, the Federal Government portions of which are to be refunded at the end of the quarters in which they are collected.²

For the audit period October 1, 2000, through April 30, 2005, contractors collected approximately \$10.2 million in overpayments. The \$10.2 million included approximately \$8.6 million in third-party liability payments and \$1.6 million in hospital credit balance overpayments. The Arkansas Department of Health and Human Services, Division of Medical

¹We issued "Review of Arkansas's Accounts Receivable System for Medicaid Provider Overpayments" (A-06-05-00039) on January 30, 2006.

²Some of the hospital credit balance overpayments might have been subject to the 60-day requirement, but we did not attempt to identify those amounts.

Services (State agency), reported approximately \$6.6 million of those collections on the CMS-64 on an annual, rather than a quarterly, basis.

OBJECTIVE

Our objective was to determine whether the State agency reported overpayments collected by contractors in accordance with Federal requirements.

SUMMARY OF FINDINGS

The State agency did not report overpayments collected by contractors in accordance with Federal requirements during the period October 1, 2000, through April 30, 2005. Specifically, the State agency did not report:

- \$3,657,402 (\$2,732,897 Federal share) in overpayments and
- \$6,575,449 (\$4,858,415 Federal share) in overpayments in a timely manner.

Also, the State agency did not report the Federal share of any interest earned on funds held in the cash holding account.

Although the State agency had written procedures in place to report overpayments in cash holding accounts quarterly pursuant to Federal requirements, the State agency chose to report the overpayments annually. As a result, at the time of our audit, the State agency had not yet returned the \$2,732,897 Federal share of the unreported overpayments and any interest it earned. Furthermore, the State agency did not return an additional \$4,858,415 Federal share of overpayments, and any interest it earned, quarterly, as required.

RECOMMENDATIONS

We recommend that the State agency:

- include the \$3,657,402 in unreported overpayments on the CMS-64 and refund the \$2,732,897 Federal share;
- determine the Federal share of any interest earned on the \$10.2 million that was held, or still may be held, in the cash holding account and refund that amount on the CMS-64; and
- adhere to its written procedures for clearing cash holding accounts to ensure that all future overpayments are reported in accordance with Federal requirements.

STATE AGENCY'S COMMENTS

In its comments on our draft report, the State agency agreed with our recommendations. The complete text of the State agency's comments is included as Appendix B.

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INTRODUCTION

BACKGROUND

This report focuses on Arkansas's reporting of Medicaid overpayments collected by State of Arkansas (the State) contractors. The overpayments consisted of hospital credit balances and third-party liability payments from commercial insurance carriers and other entities. We initiated this review because of a previous accounts receivable audit.¹ Unlike the overpayments identified in the previous audit report, the overpayments in this report were neither identified directly by the State nor included in its accounts receivable system. State contractors deposited these overpayments in a cash holding account designated by the State for this purpose.

The Medicaid Program

Enacted in 1965, Medicaid is a combined Federal-State entitlement program that provides health care and long-term care for certain individuals and families with low incomes. Within a broad legal framework, each State designs and administers its Medicaid program in accordance with a State plan approved by the Centers for Medicare & Medicaid Services (CMS), which is responsible for the program at the Federal level. The Federal Government has established a financing formula to calculate the Federal share of the medical assistance expenditures under each State's Medicaid program.

In Arkansas, the Department of Health and Human Services, Division of Medical Services (State agency), is responsible for administering the Medicaid program.

Medicaid Provider Overpayments and Third-Party Liability Payments

Section 1903(d) of the Social Security Act (the Act) is the principal authority that CMS cites in requiring States to refund the Federal share of overpayments. Section 1903(d)(2)(C) of the Act requires States to refund the Federal share of provider overpayments within 60 days of the date of discovery, whether or not the State has made a recovery. However, under section 1903(d)(2)(B), third-party liabilities are not considered overpayments until the State has received payment from the third party. Therefore, States are required to refund the Federal share only after they have collected from the liable third parties. Regulations (42 CFR part 433, subparts D and F) address provider overpayments and payments from liable third parties.

Regulations (42 CFR § 433.320) and section 2500.6B of the "State Medicaid Manual" (Medicaid Manual) instruct States to refund the Federal share of collections and refunds from providers 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 expires. Similarly, section 2500.6B of the Medicaid Manual also states that third-party liabilities are to be refunded on the CMS-64 in the quarter in which they are collected. Section 2500.6D of the Medicaid Manual requires States to clear cash holding accounts at the end of each quarter and to return the Federal share of the funds and the Federal share of any interest earned.

¹We issued "Review of Arkansas's Accounts Receivable System for Medicaid Provider Overpayments" (A-06-05-00039) on January 30, 2006.

Contractor Arrangements

The State is responsible for paying providers properly and for recovering overpayments from providers and liable third parties. Prior to July 2003, the State agency contracted with Public Consulting Group, Inc., to identify and recover these funds. Since then, the State agency has contracted with Health Management Systems, Inc. In addition to identifying and recovering amounts owed by third parties on behalf of Medicaid recipients, the contractor is also responsible for performing audits of Medicaid hospital providers to identify and recover credit balances. The contract with the State requires the contractor to (1) deposit the collections in the cash holding account designated by the State agency within 24 hours; and (2) provide third-party liability records, and collections and accounts receivable files every 30 days. The State pays the contractor a contingency fee based on a fixed percentage of the amount collected.

OBJECTIVE, SCOPE, AND METHODOLOGY

Objective

Our objective was to determine whether the State agency reported overpayments collected by contractors in accordance with Federal requirements.

Scope

We examined contractor-collected overpayments from liable third parties and hospitals totaling approximately \$10.2 million for the period October 1, 2000, through April 30, 2005. We limited our review to the refunding requirements for collected overpayments held in cash holding accounts. Therefore, any provider overpayments that would have been subject to the 60-day return required by 1903(d)(2)(C) of the Act were treated the same as third-party liabilities, the Federal Government portions of which are to be refunded at the end of the quarters in which they are collected, rather than the quarter in which the 60-day period expires.²

We did not review the overall internal control structure of the State agency's operations or its financial management. However, we gained an understanding of the controls the State agency had for recovering and reporting overpayments collected by contractors.

We conducted our fieldwork at the State agency office in Little Rock, Arkansas, from March through June 2005.

Methodology

To accomplish our objective, we reviewed:

- section 1903 of the Act, 42 CFR part 433, and section 2500 of the Medicaid Manual;

²Some of the hospital credit balance overpayments might have been subject to the 60-day requirement, but we did not attempt to identify those amounts.

- the contract between the State agency and the current contractor;
- the State agency's procedures for processing overpayments from the cash holding account and reporting those overpayments on the CMS-64; and
- the State agency's CMS-64s and supporting documentation.

We performed our review in accordance with generally accepted government auditing standards.

FINDINGS AND RECOMMENDATIONS

For the period October 1, 2000, through April 30, 2005, the State agency did not report contractor-collected overpayments from liable third parties and hospitals totaling \$10,232,851 (\$7,591,312 Federal share) in accordance with Federal requirements. The collections included \$8,629,637 in third-party payments and \$1,603,214 in hospital credit balance overpayments. Specifically, the State agency did not report:

- \$3,657,402 (\$2,732,897 Federal share) in overpayments and
- \$6,575,449 (\$4,858,415 Federal share) in overpayments in a timely manner.

Also, the State agency did not report the Federal share of any interest earned on funds held in the cash holding account.

Regulations (42 CFR § 433.320) and section 2500.6B of the Medicaid Manual instruct States to refund the Federal share of collections and refunds from providers on the CMS-64 for the quarter in which the 60-day period expires. Similarly, section 2500.6B of the Medicaid Manual also states that third-party liabilities are to be refunded on the CMS-64 in the quarter in which they are collected. Section 2500.6D of the Medicaid Manual requires States to clear cash holding accounts at the end of each quarter and return the Federal share of the funds and the Federal share of any interest earned.

Although the State agency had written procedures in place to report overpayments in cash holding accounts quarterly pursuant to Federal requirements, the State agency chose to report the overpayments annually. As a result, at the time of our audit, the State agency had not yet returned the \$2,732,897 Federal share of the unreported overpayments and any interest it earned. Furthermore, the State did not return an additional \$4,858,415 Federal share of overpayments, and any interest it earned, quarterly, as required.

OVERPAYMENTS NOT REPORTED

The State agency did not report contractor-collected overpayments totaling \$3,657,402 (\$2,732,897 Federal share), and any interest earned, on the CMS-64 at the end of the applicable quarter. The contractor placed the collections, which consisted of payments from liable third parties and hospital credit balances, in a cash holding account maintained by the State agency. The State agency cleared the cash holding account and reported the Federal share of the

collections on the CMS-64 annually rather than quarterly pursuant to Federal requirements. However, at the time of our audit, the State agency had not cleared the account, nor reported the \$3,657,402 (\$2,732,897 Federal share) in overpayments, and any interest earned on the Federal share, on the CMS-64 at the end of the applicable quarter. (See Appendix A for details.)

OVERPAYMENTS NOT REPORTED IN A TIMELY MANNER

During our audit, the State agency did not report overpayments totaling \$6,575,449 (\$4,858,415 Federal share), and any interest earned, on the CMS-64 at the end of each applicable quarter. The contractor deposited collections consisting of hospital credit balances and payments from liable third parties into a cash holding account maintained by the State agency. The State agency cleared the cash holding account and reported the Federal share of the overpayments on the CMS-64 annually rather than quarterly pursuant to Federal requirements. Consequently, the State agency did not report \$6,575,449 (\$4,858,415 Federal share) of overpayments, and any interest earned on the Federal share, on the CMS-64 at the end of each quarter as required.

CONCLUSION

The State agency did not refund the contractor-collected overpayments from liable third parties and hospitals totaling \$10,232,851 (\$7,591,312 Federal share) and the interest earned on the Federal share on the CMS-64 in accordance with Federal requirements for overpayments and cash holding accounts.

RECOMMENDATIONS

We recommend that the State agency:

- include the \$3,657,402 in unreported overpayments on the CMS-64 and refund the \$2,732,897 Federal share;
- determine the Federal share of any interest earned on the \$10.2 million that was held, or still may be held, in the cash holding account and refund that amount on the CMS-64; and
- adhere to its written procedures for clearing cash holding accounts to ensure that all future overpayments are reported in accordance with Federal requirements.

STATE AGENCY'S COMMENTS

In its comments on our draft report, the State agency agreed with our recommendations. In summary, the State agency commented that it had reported the unreported overpayments and that it had determined the Federal share of interest on the overpayments and would refund the entire amount. In addition, the State agency agreed to adhere to its procedures to ensure compliance with Federal reporting requirements. The complete text of the State agency's comments is included as Appendix B.

APPENDIXES

APPENDIX A

**COLLECTED OVERPAYMENTS NOT REPORTED
DURING THE AUDIT PERIOD
OCTOBER 1, 2000, THROUGH APRIL 30, 2005**

| Month | Collected Overpayments | Federal Financial Participation Rate | Federal Share |
|----------------|-------------------------------|---|----------------------|
| July 2004 | \$176,883 | 74.67 | \$132,079 |
| August 2004 | 768,569 | 74.67 | 573,890 |
| September 2004 | 318,688 | 74.67 | 237,964 |
| October 2004 | 263,087 | 74.75 | 196,658 |
| November 2004 | 468,866 | 74.75 | 350,477 |
| December 2004 | 535,319 | 74.75 | 400,151 |
| January 2005 | 148,608 | 74.75 | 111,084 |
| February 2005 | 118,944 | 74.75 | 88,911 |
| March 2005 | 347,727 | 74.75 | 259,926 |
| April 2005 | 510,711 | 74.75 | 381,757 |
| Total | \$3,657,402 | | \$2,732,897 |



**Arkansas Department
of Health and Human Services**
Office of the Director



P.O. Box 1437, Slot S-201 Little Rock, AR 72203-1437 • 501-682-8650 • Fax: 501-682-6836 • TDD: 501-682-8933

August 7, 2006

Report Number : A-06-06-00023

Mr. Gordon L. Sato
Regional Inspector General for Audit Services
Department of Health & Human Services
Office of Inspector General
Office of Audit Services
1100 Commerce, Room 632
Dallas, TX 75242

Dear Mr. Sato:

This letter is in response to the draft report entitled "Review of Arkansas's Reporting of Medicaid Overpayments Collected by Contractors" resulting from the review performed by the Office of Inspector General dated July 7, 2006.

Following is our response to the findings and recommendations:

Finding:

The State agency did not report overpayment collected by contractors in accordance with Federal requirements during the period October 1, 2000 through April 30, 2005. Specifically, the State agency did not report:

- \$3,657,402 (\$2,732,897 Federal share) in overpayments and
- \$6,575,449 (\$4,858,415 Federal share) in overpayments in a timely manner.

Recommendation #1:

The State agency should include the \$3,657,402 in unreported overpayments on the CMS-64 and refund the \$2,732,897 Federal share.

Response:

Third Party Liability (TPL) transfer and reporting for the period July 2004 through April 2005 was included in transfer request dated 7/19/05 for the period July 2004 through June 30, 2005. The federal share was reported on the September 2005 CMS-64 report.

Mr. Gordon L. Sato
Page 2

Recommendation #2:

The State agency should determine the Federal share of any interest earned on the \$10.2 million that was held, or still may be held, in the cash holding account and refund that amount on the CMS-64.

Response:

The state requested transfer of TPL interest for July 2002 through February 2006 on 3/27/06. The total amount of interest was \$66,177.19; the federal share was \$44,695.55 which would be reported on the June 2006 CMS-64 report. In reviewing this report, it was determined that October 2000 through June 2002 interest totaling \$23,244.99 federal share \$16,944.71 was transferred as state funds. An adjustment will be made on the September 2006 CMS-64 for \$16,944.71, the federal share of this interest.

Recommendation #3:

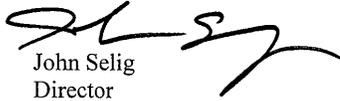
The State agency should adhere to its written procedures for clearing cash holding accounts to ensure that all future overpayments are reported in accordance with Federal requirements.

Response:

Since June 2005 the state has been making transfers timely and will continue this procedure to ensure compliance with federal reporting requirements.

We appreciate the opportunity to respond to the findings and recommendations and will make every effort to comply with Federal regulations regarding overpayments.

Sincerely,



John Selig
Director

cc: Roy Jeffus, Director Division of Medical Services
Jerry Berry, DHHS Chief Fiscal and Administrative Officer
Ray Scott, Assistant Director, DHHS
Breck Hopkins, Office of Chief Counsel, DHHS