



DEC 13 2007

Region VII
601 East 12th Street
Room 284A
Kansas City, Missouri 64106

Report Number: A-07-06-03086

Ms. Deborah E. Scott
Director
Missouri Department of Social Services
Broadway State Office Building
P.O. Box 1527
Jefferson City, Missouri 65102-1527

Dear Ms. Scott:

Enclosed is the U.S. Department of Health and Human Services (HHS), Office of Inspector General (OIG), final report entitled "Review of Missouri's Determination of Medicaid Disproportionate Share Hospital Eligibility for State-Owned Institutions for Mental Diseases." 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.

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If you have any questions or comments about this report, please do not hesitate to call me, or contact Greg Tambke, Audit Manager, at (573) 893-8338, extension 30, or through e-mail at Greg.Tambke@oig.hhs.gov. Please refer to report number A-07-06-03086 in all correspondence.

Sincerely,

Patrick J. Cogley
Regional Inspector General
for Audit Services

Enclosure

Direct Reply to HHS Action Official:

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Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**REVIEW OF MISSOURI'S
DETERMINATION OF MEDICAID
DISPROPORTIONATE SHARE
HOSPITAL ELIGIBILITY FOR
STATE-OWNED INSTITUTIONS
FOR MENTAL DISEASES**



Daniel R. Levinson
Inspector General

December 2007
A-07-06-03086

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

Medicaid Disproportionate Share Hospitals

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

Section 1902 of the Act requires State Medicaid programs to "...take into account (in a manner consistent with section 1923) the situation of hospitals which serve a disproportionate number of low-income patients with special needs" when determining payment rates for inpatient hospital care. This requirement is referred to as the Medicaid disproportionate share hospital (DSH) payment adjustment. Medicaid DSH payments are made to those hospitals that provide services to a disproportionate number of low-income and uninsured patients.

Of particular concern for this audit is the relationship between the DSH program and the provision of mental health services to patients. Section 1923(d)(3) of the Social Security Act and Attachment 4.19-A of the approved State plan require that Institutions for Mental Diseases (IMD) have an Medicaid Inpatient Utilization Rate (MIUR) of not less than one percent to be deemed a Medicaid DSH. The MIUR, expressed as a percentage, is the ratio of the hospital's number of inpatient days for patients eligible for Medicaid inpatient services, to the hospital's total number of inpatient days for that same period.

Section 1905(a) of the Act precludes Federal financial participation (FFP) for any Medicaid services to residents under age 65 who are in an IMD, except for inpatient psychiatric services provided to individuals under the age of 21. However, 42 CFR § 435.1008(a)(2) permits Medicaid services in some instances to those under the age of 22. Additionally, section 1905(a)(A) of the Act, and 42 CFR § 435.1008(a)(1), prohibit FFP for individuals who are inmates of public institutions.

OBJECTIVE

Our objective was to determine whether the State correctly determined State-owned IMDs to be eligible for Medicaid DSH payments for Federal fiscal years (FFY) 2003 – 2005.

SUMMARY OF FINDINGS

The State correctly determined seven State-owned IMDs to be DSH eligible for FFYs 2003 – 2005. However, the State incorrectly computed the MIURs for the IMDs. The State incorrectly computed the MIURs because it did not comply with Federal regulations concerning the exclusion of inpatient days related to unallowable age groups and incarcerated individuals. In addition, the State included unallowable inpatient days related to accounting errors for the FFY 2003 – 2005 DSH eligibility determination. The State also lacked adequate controls concerning the acquisition, review and maintenance of contemporaneous documentation to support the MIUR calculations. As a result, the State could not adequately support its MIUR calculations for State-owned IMDs. These errors did not cause the MIUR to fall below the one percent threshold at any of these State-owned IMDs. Thus, the seven State-owned IMDs were Medicaid DSH eligible for FFYs 2003 – 2005. However, we are concerned that the State may in the future overstate the MIURs and, consequently, incorrectly classify one or more IMDs as DSH eligible.

RECOMMENDATIONS

We recommend the State:

- comply with Federal regulations concerning the exclusion of unallowable inpatient days from the MIUR calculations; and
- strengthen controls to eliminate accounting errors and to acquire, review, and maintain contemporaneous documentation to support the original Medicaid DSH MIUR calculations.

STATE’S COMMENTS AND OFFICE OF INSPECTOR GENERAL’S RESPONSE

In its written comments on our draft report, the State concurred with our second recommendation and neither agreed nor disagreed with our first recommendation. However, the State’s comments, regarding our first recommendation, stated that we based our finding that the State incorrectly computed the MIURs on a “narrow and ultimately unsupportable interpretation of the applicable federal regulations. Missouri’s position is that state owned psychiatric hospitals are not public institutions. . . . [and] are not penal institutions.”

After reviewing the State’s comments, we disagree with the State’s interpretation of the terms “public institution” and “penal institution,” and we continue to support our recommendation that the State should comply with Federal regulations concerning the exclusion of unallowable inpatient days from the MIUR calculations.

The State’s comments are included in their entirety as the Appendix.

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INTRODUCTION

BACKGROUND

Medicaid Disproportionate Share Hospitals

Pursuant to Title XIX of the Social Security Act (the Act), the Medicaid program provides medical assistance to low-income individuals and individuals with disabilities. The Federal and State Governments jointly fund and administer the Medicaid program. At the Federal level, the Centers for Medicare & Medicaid Services (CMS) administers the program. Each State administers its Medicaid program in accordance with a CMS-approved State plan. Although the State has considerable flexibility in designing and operating its Medicaid program, it must comply with applicable Federal requirements. Within broad Federal guidelines, each State determines eligible groups, types and ranges of services, payment levels for services, and administrative operating procedures. The Missouri Department of Social Services (the State) administers Missouri's Medicaid program.

The Omnibus Budget Reconciliation Act of 1981 established the Medicaid Disproportionate Share Hospital program. Section 1902 of the Act requires State Medicaid programs to "...take into account (in a manner consistent with section 1923) the situation of hospitals which serve a disproportionate number of low-income patients with special needs" when determining payment rates for inpatient hospital care. This requirement is referred to as the Medicaid disproportionate share hospital (DSH) payment adjustment. Medicaid DSH payments are made to those hospitals that provide services to a disproportionate number of low-income and uninsured patients. Hospitals that receive DSH payments fall into two general categories: (1) hospitals that must receive DSH payments under Federal law (per § 1923(b) of the Act), and (2) hospitals that may receive DSH payments if the State designates them as DSH hospitals in their State plans (per Section 1923(d)(3) of the Act).

Institutions for Mental Diseases

Section 1905(i) of the Act and 42 CFR § 435.1009 define an Institution for Mental Disease (IMD) as a hospital, nursing facility, or other institution of more than 16 beds that is primarily engaged in providing diagnosis, treatment, or care of persons with mental diseases, including medical attention, nursing care, and related services. Psychiatric hospitals (including State-operated and private psychiatric hospitals) and inpatient psychiatric residential treatment facilities with more than 16 beds are IMDs. Conversely, not all facilities that provide inpatient psychiatric care are classified as IMDs. Specifically, facilities that have 16 beds or less are not IMDs, and those facilities that are not primarily engaged in providing care to persons with mental diseases are not IMDs.

Section 1923(d)(3) of the Act and Attachment 4.19-A of the approved State plan require that IMDs have a Medicaid inpatient utilization rate (MIUR)¹ of not less than one percent to be

¹The MIUR is a fraction (expressed as a percentage), where the numerator of the fraction is the hospital's number of days attributable to patients who were eligible for Medicaid inpatient services under a State plan. The denominator of the MIUR fraction represents the total number of the hospital's inpatient days in that period.

deemed a Medicaid DSH. IMDs that have an MIUR of at least one percent are eligible for DSH payments to recoup the unreimbursed costs of providing inpatient care to patients who are either Medicaid eligible or uninsured.

Section 1905(a) of the Act precludes Federal financial participation (FFP) for any Medicaid services to residents under age 65 who are in an IMD, except for inpatient psychiatric services provided to individuals under the age of 21. However, 42 CFR § 435.1008(a)(2) permits Medicaid services in some instances to those under the age of 22.² Additionally, section 1905(a)(A) of the Act and 42 CFR § 435.1008(a)(1) prohibit FFP for individuals who are inmates of public institutions. Medicaid days associated with unallowable inpatients cannot be included in the MIUR calculation.

OBJECTIVE, SCOPE AND METHODOLOGY

Objective

Our objective was to determine whether the State correctly determined State-owned IMDs to be eligible for Medicaid DSH payments for Federal fiscal years (FFY) 2003 – 2005.

Scope

We reviewed Medicaid DSH eligibility for seven State-owned IMDs for FFYs 2003 – 2005.³ Because the State determines eligibility based on the fourth prior year's patient census information, we reviewed State-owned IMDs' inpatient data for State fiscal years (SFY) 1999 – 2001. For example, to determine an IMD's DSH eligibility for FFY 2003, the State calculated the MIUR using the IMD's SFY 1999 inpatient data. We therefore reviewed each IMD's inpatient data for SFYs 1999 – 2001 to determine whether the State correctly determined that IMD's DSH eligibility for FFYs 2003 – 2005.

Our objective did not require an understanding or assessment of the State's overall internal control structure. Our review was limited to controls over the State's determination of DSH eligibility for State-owned IMDs. In addition, we did not review the State's methodology for determining the allocation of DSH funds to State-owned IMDs.

We performed this audit in conjunction with our audit of Missouri's DSH eligibility determinations for Southeast Missouri Mental Health Center (A-07-07-03095).

We performed fieldwork during October and December 2006 at the offices of the Missouri Department of Social Services and the Missouri Department of Mental Health in Jefferson City, Missouri, and at four of the seven State-owned IMDs.

²If the individual was receiving the services immediately before he or she reached age 21, services may continue to be provided until the earlier of (1) the date the individual no longer requires the services or (2) the date the individual attains the age of 22.

³An eighth State-owned IMD is subject to a separate review, "Review of Missouri's Determination of Medicaid Disproportionate Share Hospital Eligibility for Southeast Missouri Mental Health Center," report number A-07-07-03095.

Methodology

To accomplish the objective, we:

- reviewed Federal regulations concerning the establishment of the Medicaid DSH program and DSH eligibility;
- reviewed the State plan to ensure consistency with Federal DSH eligibility requirements;
- interviewed State officials to gain an understanding of Missouri’s DSH program, and of their interpretation and implementation of the program and of the State plan itself;
- reviewed the SFYs 1999 – 2001 Medicaid Cost Reports used by the State to determine whether State-owned IMDs were DSH eligible for FFYs 2003 – 2005;
- reviewed the State’s FFYs 2003 – 2005 standard Form CMS-64, “Quarterly Medicaid Statement of Expenditures For the Medical Assistance Program,” submissions to determine DSH payments claimed for State-owned IMDs;
- determined whether State-owned IMDs had a valid Medicare participation agreement for FFYs 2003 – 2005;
- reviewed inpatient admission data to determine whether inpatient days included in State-owned IMD MIUR calculations were in accordance with Federal regulations;
- recomputed the MIUR calculations for all State-owned IMDs based on allowable Medicaid inpatient days and re-determined their DSH eligibility for FFYs 2003 – 2005; and
- reconciled DSH payments claimed by the state to allowable DSH payments.

Our audit was performed in accordance with generally accepted government auditing standards.

FINDINGS AND RECOMMENDATIONS

The State correctly determined seven State-owned IMDs to be DSH eligible for FFYs 2003 – 2005. However, the State incorrectly computed the MIURs for the IMDs. The State incorrectly computed the MIURs because it did not comply with Federal regulations concerning the exclusion of inpatient days related to unallowable age groups and incarcerated individuals. In addition, the State included unallowable inpatient days related to accounting errors for the FFY 2003 – 2005 DSH eligibility determinations. The State also lacked adequate controls concerning the acquisition, review and maintenance of contemporaneous documentation to support the MIUR calculations. As a result, the State could not adequately support its MIUR calculations for State-owned IMDs. These errors did not cause the MIUR to fall below the one percent threshold at any of these State-owned IMDs. Thus, the seven State-owned IMDs were

Medicaid DSH eligible for FFYs 2003 – 2005. However, we are concerned that the State may in the future overstate the MIURs and, consequently, incorrectly classify one or more IMDs as DSH eligible.

FEDERAL REGULATIONS

Section 1923(d)(3) of the Act states, “No hospital may be defined or deemed as a disproportionate share hospital under a State plan under this title . . . unless the hospital has a medicaid [sic] inpatient utilization rate . . . of not less than 1 percent.” The “inpatient utilization rate” referred to in this section of the Act is the MIUR. The MIUR (a percentage) thus constitutes a specific and precise standard – “not less than 1 percent” – for DSH eligibility.

42 CFR § 435.1008(a)(2) states that FFP is not available in expenditures for services provided to “[i]ndividuals under age 65 who are patients in an institution for mental diseases unless they are under age 22 and are receiving inpatient psychiatric services under Sec. 440.160 of this subchapter.” Specifically, patients between the ages of 22 and 64 who are inpatients in an IMD are not eligible for any Medicaid services. As a result, Medicaid days associated with these inpatients cannot be included in the MIUR calculation.

Section 1905(a)(A) of the Act precludes medical assistance “...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).” Additionally, 42 CFR § 435.1008(a)(1) states that FFP is not available for services to “individuals who are inmates of public institutions as defined in Sec. 435.1009.”

In turn, 42 CFR § 435.1009 defines an inmate of a public institution as:

. . . 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.

On December 12, 1997, CMS issued a letter to all Associate Regional Administrators clarifying CMS’s Medicaid coverage policy, under section 1905(a)(A) of the Act, for inmates of a public institution. The letter stated:

When determining whether FFP is prohibited under the above noted statute, two criteria must be met. First, the individual must be an inmate; and second, the facility in which the individual is residing must be a public institution. An individual is an inmate when serving time for a criminal offense or confined involuntarily in State or Federal prisons, jails, detention facilities, or other penal facilities. An individual who is voluntarily residing in a public institution would not be considered an inmate, and the statutory prohibition of FFP would not apply. (Emphasis added.)

The letter also noted that “an exception to the prohibition of FFP is permitted when an inmate becomes a patient in a medical institution.” In general, though, Medicaid days associated with unallowable inpatients cannot be included in the MIUR calculation.

In addition, 42 CFR § 430.10 requires States to include assurances that the State Plan is in compliance with Federal law, regulations, and official guidance issued by the U.S. Department of Health and Human Services.

MISSOURI STATE PLAN

Attachment 4.19-A, section (VI)(A) of the Missouri State Medicaid plan states: “Inpatient hospital providers may qualify as a Disproportionate Share Hospital based on the following criteria. Hospitals shall qualify as Disproportionate Share Hospitals for a period of only one (1) state fiscal year and must re-qualify at the beginning of each state fiscal year to continue their disproportionate share classification.”

Section (VI)(C) of the approved State plan states that hospitals having “. . . a Medicaid inpatient utilization percentage of a [sic] least one percent (1%) for Medicaid eligible recipients may at the option of the state be deemed a Disproportionate Share Hospital (DSH).”

UNALLOWABLE MEDICAID INPATIENT DAYS

The State correctly determined seven State-owned IMDs to be DSH eligible for FFYs 2003 – 2005. However, the State incorrectly computed the MIURs for the IMDs. The State included unallowable inpatient days in the MIUR calculations used to determine State-owned IMDs’ Medicaid DSH eligibility for FFYs 2003 – 2005. The State included 1,607 days related to unallowable age groups, 1,516 days related to incarcerated individuals, and 127 days related to double-counted or over-counted inpatient days. The following table identifies the unallowable days noted for each State-owned IMD:

<u>Facility Name</u>	<u>Unallowable Age Groups</u>	<u>Incarcerated Individuals</u>	<u>Accounting Issues</u>	<u>Total Unallowable Days</u>
Fulton State Hospital	26	621	121	768
Hawthorne Children's Psychiatric Center	0	0	0	0
Metropolitan St. Louis Psychiatric Center	607	0	0	607
Mid-Missouri Mental Health Center	443	0	0	443
Northwest Missouri Psychiatric Rehabilitation Center	0	895	0	895
St. Louis Psychiatric Rehabilitation Center	0	0	0	0
Western Missouri Mental Health Center	531	0	6	537
Total	<u>1,607</u>	<u>1,516</u>	<u>127</u>	<u>3,250</u>

THE STATE DID NOT FOLLOW FEDERAL REGULATIONS AND LACKED ADEQUATE CONTROLS

The unallowable inpatient days were included because the State did not comply with Federal DSH regulations concerning the exclusion of unallowable age groups and inmates of public institutions from the MIUR calculation for State-owned IMDs. In addition, the State did not have adequate controls to eliminate from its calculations unallowable inpatient days related to accounting errors.

In a reflection of these inadequate controls, the State acknowledged that it did not acquire, review, and maintain patient census data from the State-owned IMDs to support the original MIUR calculations. The State indicated that it reviewed only those MIUR calculations as computed on the State's Medicaid Cost Reports. Additionally, the State used data systems designed to track inpatient days utilizing real-time data and could not reproduce the original data used to calculate the original MIURs. By failing to maintain contemporaneous documentation, the State could not adequately support its original calculation of the MIURs for State-owned IMDs.

MEDICAID ELIGIBILITY DETERMINATIONS

The following table compares the State's and OIG's MIUR calculations:

<u>Facility Name</u>	<u>FFY 2003</u>		<u>FFY 2004</u>		<u>FFY 2005</u>	
	<u>State</u>	<u>OIG</u>	<u>State</u>	<u>OIG</u>	<u>State</u>	<u>OIG</u>
Fulton State Hospital	4.08%	3.97%	3.08%	2.95%	2.13%	1.74%
Hawthorne Children's Psychiatric Center	31.79%	31.79%	30.29%	31.72%	56.63%	53.84%
Metropolitan St. Louis Psychiatric Center	2.37%	2.83%	2.40%	2.01%	2.57%	2.00%
Mid-Missouri Mental Health Center	9.06%	8.63%	10.26%	9.41%	7.53%	6.60%
Northwest Missouri Psychiatric Rehabilitation Center	2.63%	1.75%	6.40%	5.83%	4.45%	3.76%
St. Louis Psychiatric Rehabilitation Center	2.09%	2.05%	1.61%	1.59%	1.92%	1.88%
Western Missouri Mental Health Center	6.63%	6.27%	9.44%	9.15%	12.95%	8.21%

This table supports our determination that seven State-owned IMDs were Medicaid DSH eligible for FFYs 2003 – 2005 because the errors did not cause the MIURs for any of the seven State-owned IMDs to fall below the one percent MIUR threshold. However, we also noted that in 20 of the 21 comparisons⁴ our MIUR calculations differed from those made by the State, and often by statistically significant margins. This fact leads us to express our concern that the State may in the future overstate allowable Medicaid inpatient days for some IMDs with low MIURs and, consequently, incorrectly classify one or more IMDs as DSH eligible.

RECOMMENDATIONS

We recommend the State:

- comply with Federal regulations concerning the exclusion of unallowable inpatient days from the MIUR calculations; and
- strengthen controls to eliminate accounting errors and to acquire, review, and maintain contemporaneous documentation to support the original Medicaid DSH MIUR calculations.

⁴The reference to 21 comparisons reflects the fact that we reviewed inpatient census data for 7 IMDs for 3 FYs.

STATE'S COMMENTS

In its written comments on our draft report, the State concurred with our second recommendation and stated it “will implement procedures to make such corrections as necessary to include only allowable patient days in the facilities’ MIUR calculations.”

The State neither agreed nor disagreed with our first recommendation. However, the State’s comments, regarding our first recommendation, stated that we based our finding that the State incorrectly computed the MIURs on a “narrow and ultimately unsupportable interpretation of the applicable federal regulations. Missouri’s position is that state owned psychiatric hospitals are not public institutions as defined in 42 CFR 435.1010. . . . [and] are not penal institutions.” The State added:

Individuals residing in state-owned IMDs in the care and custody of DMH [Department of Mental Health] are not considered to be incarcerated. Unlike the Missouri Department of Corrections, where an individual is sentenced to a determinate number of years as a punishment for a particular crime, an individual committed to the Missouri Department of Mental Health as not guilty by reason of insanity may be returned to the community by the court when the individual no longer presents a danger as a result of a mental illness.

The State also commented on our finding with respect to its inclusion of unallowable age groups in its MIUR calculation, stating that it “has not had sufficient opportunity to review the audit data and is, therefore, unable to determine whether these patient days were allowable or not. Prior to reaching any conclusions regarding the audit, the State would like to review any exception reports or data regarding patient days paid on behalf of ineligible individuals.”

OFFICE OF INSPECTOR GENERAL’S RESPONSE

After reviewing the State’s written comments, we disagree with the State’s interpretation of the terms “public institution” and “penal institution” as that interpretation applies to patients found not guilty by reason of insanity and involuntarily admitted to State-owned IMDs as the results of court proceedings. In a letter to Associate Regional Administrators on December 12, 1997, CMS stated that “[a]n individual is an inmate when serving time for a criminal offense or confined involuntarily in State or Federal prisons, jails, detention facilities, or other penal facilities.” (Emphasis added.) This letter continues:

It is important to note that the exception to inmate status – based on ‘while other living arrangements appropriate to the individual’s needs are being made’ does not apply when the individual is involuntarily residing in a public institution awaiting criminal proceedings, penal dispositions, or other involuntary detainment determinations. (Emphasis added.)

Individuals who are placed in State-owned IMDs because a court ruling determined them to be not guilty by reason of insanity are there because of an involuntary detainment determination.

The State's own statement that an individual found not guilty by reason of insanity can only return to the community by court order bears this point out.

We also disagree with the State's assertion that State-owned IMDs are not public institutions as defined by Federal regulation. The December 12, 1997 letter by CMS points out that "a facility is a public institution when it is under the responsibility of a governmental unit; or over which a governmental unit exercises administrative control." Missouri's State-owned IMDs are facilities operated by the Missouri Department of Mental Health, which exercises administrative control over the facilities.

Additionally, with respect to the State's statement that it has not had "sufficient opportunity" to review the audit data concerning unallowable age groups, and "would like to review any exception reports or data," we note that the State made no such request over the course of the audit. The State's written comments did not provide any new information that caused us to change this finding. In fact, we based our analysis of unallowable age groups on information provided to us by the State. Therefore, we continue to recommend that the State comply with Federal regulations concerning the exclusion of unallowable inpatient days from the MIUR calculations.

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

APPENDIX



**MISSOURI
DEPARTMENT OF SOCIAL SERVICES**

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August 16, 2007

Patrick J. Cogley, Regional Inspector General
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Region VII
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RE: Report Number A-07-06-03086

Dear Mr. Cogley:

This is in response to your July 13, 2007 letter regarding the draft report from the Office of Inspector General (OIG) entitled "Review of Missouri's Determination of Medicaid Disproportionate Share Hospital Eligibility for State-Owned Institutions for Mental Diseases." You requested that the State of Missouri provide written comments for each recommendation in the draft report which would be included in your final report.

The OIG's stated objective for this review was to determine whether Missouri correctly determined state-owned Institutions for Mental Diseases (IMDs) to be eligible for Medicaid Disproportionate Share Hospital (DSH) payments for Federal Fiscal Year (FFY) 2003-2005. The OIG report states that Missouri correctly determined seven state owned IMDs to be DSH eligible for FFY 2003-2005, while at the same time contending that the State incorrectly computed the Medicaid inpatient utilization rate (MIUR) for its facilities.¹ The review indicates that the State's MIUR calculations included inpatient days related to incarcerated individuals as well as individuals in unallowable age groups. The review further states that Missouri also included unallowable days due to accounting errors. The OIG recommendations are restated below along with the Division of Medical Services response.

1. The State comply with federal regulations concerning the exclusion of unallowable inpatient days from the MIUR calculations.

¹ The report does not include any DSH eligibility determination regarding Southeast Missouri Mental Health Center, another state owned IMD. Per OIG, this facility's DSH eligibility will be addressed in a separate review.

****AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER****
services provided on a nondiscriminatory basis

Response: Missouri believes that the OIG has based its finding that it is not allowable to include patients in the custody of the Department of Mental Health (DMH) in the calculation of MIUR on a narrow and ultimately unsupported interpretation of the applicable federal regulations. Missouri's position is that state owned psychiatric hospitals are not public institutions as defined in 42 CFR 435.1010. These DMH facilities are not penal institutions, but are IMDs providing active treatment related to the psychiatric care of individuals with mental illness. Individuals residing in state-owned IMDs in the care and custody of DMH are not considered to be incarcerated. Unlike the Missouri Department of Corrections, where an individual is sentenced to a determinate number of years as a punishment for a particular crime, an individual committed to the Missouri Department of Mental Health as not guilty by reason of insanity may be returned to the community by the court when the individual no longer presents a danger as the result of a mental illness.

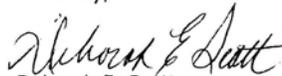
With regard to the OIG position that Missouri included unallowable age groups in its MIUR calculations, the State has not had sufficient opportunity to review the audit data and is, therefore, unable to determine whether these patient days were allowable or not. Prior to reaching any conclusions regarding the audit, the State would like to review any exception reports or data regarding patient days paid on behalf of ineligible individuals.

2. Strengthen controls to eliminate accounting errors and to acquire, review, and maintain contemporaneous documentation to support the original Medicaid DSH MIUR calculations.

Response: With regard to the OIG's finding that approximately 4% of unallowable patient days were due to accounting errors, the State concurs and will implement procedures to make such corrections as necessary to include only allowable patient days in the facilities' MIUR calculations.

If you have additional questions, please contact Steven E. Renne, Interim Director, Division of Medical Services, at 573/751-6922.

Sincerely,



Deborah E. Scott
Director

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