



Office of Audit Services  
Region I  
John F. Kennedy Federal Building  
Boston, MA 02203  
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December 2, 2002

Report Number: A-01-02-00007

Dr. Arthur Tate  
Superintendent  
Haverhill Public Schools  
4 Summer Street  
Haverhill, Massachusetts 01830

Dear Dr. Tate:

Enclosed are two copies of the U.S. Department of Health and Human Services (HHS), Office of Inspector General, Office of Audit Services' (OAS) report entitled "Medicaid Payments for School Based Health Services, Haverhill, Massachusetts - July 1999 through June 2000." A copy of this report will be forwarded to the action official noted below for his/her review and any action deemed necessary.

Final determination as to actions taken on all matters reported will be made by the HHS action official named below. We request that you respond to the HHS action official within 30 days from the date of this letter. Your response should present any comments or additional information that you believe may have a bearing on the final determination.

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

To facilitate identification, please refer to Report Number A-01-02-00007 in all correspondence relating to this report.

Sincerely yours,

A handwritten signature in cursive script that reads "Michael J. Armstrong".

Michael J. Armstrong  
Regional Inspector General  
for Audit Services

Enclosures - as stated

**Direct Reply to HHS Action Official:**

Ms. Lynda Silva

Acting Regional Administrator

Centers for Medicare & Medicaid Services

U.S. Department of Health and Human Services

John F. Kennedy Federal Building, Room 2325

Boston, Massachusetts 02203-0003

cc: Frank McNamara, Director, Internal Control and Audit, Division of Medical Assistance  
Executive Office of Health and Human Services, Commonwealth of Massachusetts  
John Robertson, Associate Vice Chancellor, Center Director, Center for health Care  
Financing University of Massachusetts

**Department of Health and Human Services**

**OFFICE OF  
INSPECTOR GENERAL**

**MEDICAID PAYMENTS FOR  
SCHOOL-BASED HEALTH SERVICES  
HAVERHILL, MASSACHUSETTS  
- JULY 1999 THROUGH JUNE 2000 -**



**JANET REHNQUIST**  
Inspector General

December 2002  
A-01-02-00007

# ***Office of Inspector General***

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## **EXECUTIVE SUMMARY**

### **Background**

The Medicaid Program was established by Title XIX of the Social Security Act and is jointly funded by the federal and state governments to provide medical assistance to pregnant women, children, and needy individuals who are aged, blind or disabled. Within broad federal guidelines, states design and administer the program under the general oversight of the Centers for Medicare and Medicaid Services (CMS). In Massachusetts, the Division of Medical Assistance (DMA) is the state agency responsible for administering the Medicaid program. The DMA contracts with the University of Massachusetts Medical School, Center for Health Care Financing, Municipal Medicaid to administer the school-based health services portion of the Medicaid program.

School-based health services reimbursable under the Medicaid program are provided by or through the Massachusetts Department of Education (DOE) or a local education agency to students with special needs pursuant to an Individualized Education Plan (IEP). Services are provided in the school setting or another site in the community and include speech therapy, physical therapy, occupational therapy, audiological services, behavior management or counseling. The Haverhill Public Schools, a local education agency located in Haverhill, Massachusetts, operated 22 public schools and contracted with 27 private schools during our audit period. Of approximately 8,592 students who attended the Haverhill Public Schools during our audit period, 598 students received special education services for which the school system was reimbursed \$253,287 (federal share) under the Commonwealth of Massachusetts' Medicaid program.

### **Objective**

The objective of our audit was to determine whether costs claimed for school-based health services by the Haverhill Public Schools through the Commonwealth of Massachusetts were reasonable, allowable and adequately supported in accordance with the terms of the state Medicaid plan and applicable federal regulations. The audit period included Medicaid payments made during the period July 1, 1999 through June 30, 2000.

### **Summary of Findings**

In Massachusetts, claims for school-based health services are based on a daily per diem rate for the prototype (level-of-service developed in each Medicaid eligible student's IEP). Each school district must have evidence that any Medicaid covered service in the IEP has been delivered by a qualified provider, a valid IEP for each student, an accurate prototype, and accurate attendance records before the Medicaid claim is submitted for federal reimbursement.

The Haverhill Public Schools need to improve their system of controls to ensure that school-based health records are assembled and maintained to support the dates and types of services provided.

Our review of payments contained in randomly selected months for 100 recipients showed that the Haverhill Public Schools billed the Medicaid program: (1) for services rendered by providers that did not have the qualifications required by Massachusetts Medicaid regulations, (2) for several students for which the school system did not locate any documentation to demonstrate that services prescribed in the IEP were delivered, and (3) when a student was absent. Relative to our review of the randomly selected months, we estimate that the Haverhill Public Schools were inappropriately overpaid at least \$81,902 (federal share).

In addition, the Haverhill Public Schools did not always obtain an "authorization" signed by either a parent or guardian to share information with the DMA for the purpose of submitting claims for Medicaid reimbursement for school-based health services. In this regard, 48 out of 100 sample months tested did not have the signed authorization forms. Accordingly, we have no assurance that a significant number of parents of special education students attending the Haverhill Public Schools were informed about or gave consent to sharing their child's confidential information with the state Medicaid agency. This requirement does not preclude the state agency from billing Medicaid for school-based health services.

Internal controls need to be strengthened in the Haverhill Public Schools to ensure that it appropriately submits Medicaid claims for school-based health care services.

## **Recommendations**

We recommend that the Haverhill Public Schools:

- Research Medicaid eligibility for all current health service providers and establish procedures to ensure that health services are rendered by Medicaid eligible providers,
- Develop written policies and procedures requiring service providers to document all health services delivered to Medicaid recipients which details client specific information regarding all specific services actually provided for each individual recipient of services and retain those records for review,
- Establish procedures to ensure that Medicaid billings are based on accurate attendance records that support the students' presence to receive services,
- Refund through the DMA, the \$81,902 (federal share) that was inappropriately paid by the Medicaid program to the Haverhill Public Schools.

## **Auditee Response**

In their response to the audit report, Haverhill Public Schools officials disagreed with the findings and recommendations relative to: services rendered by providers (psychologists and speech therapists) that did not have the qualifications required by Massachusetts Medicaid regulations, and claims for which the school system did not locate any documentation to demonstrate that services prescribed in the IEP were delivered. Further, school officials stated they were in compliance with guidance provided by: DOE relative to psychologists working in

the education setting, and DMA relative to the school system's method of documenting services delivered. Further, they acknowledge that the terms of their provider agreement with DMA require that the school department maintain a medical record. However, they stated that at no point was the maintenance of such a record tied to the schools' ability to file a claim for reimbursement. School officials assert that service logbooks were maintained by health service providers but were typically discarded at the end of the year. Based on the fact that we recommended a financial refund of the entire amount of the per diem rate when there was no documentation, the Haverhill Public Schools question our understanding of the nature of the per diem rate system. They question whether the audit approach is flawed and the financial refund recommendation has a relationship to the cost component reflected in the per diem rate that applies to the specific medical service.

School officials agreed with the finding and recommendation with respect to the student absence. Finally, the Haverhill Public Schools believe that they are now in compliance with the requirement to develop procedures to ensure that authorization is obtained prior to sharing information with Medicaid and plans to request parental consent in the primary language of the home. (See Appendix C for Haverhill Public Schools' comments in their entirety.)

### **Additional OAS Comments**

Relative to Haverhill Public Schools' understanding of guidance provided by state agencies regarding provider qualifications and documentation requirements, in the provider agreement that the Haverhill Public Schools entered into with the DMA, the Haverhill Public Schools agreed "...To comply with all state and federal statutes, rules, and regulations applicable to participation in the Medical Assistance Program...To furnish the Department [DMA] and any duly authorized state and federal officials...with such information, including copies of medical records, regarding any services for which payment was claimed from the Department..."

OAS' approach regarding no documentation supporting services delivered was to accept documentation for one health related service as justifying the claim whether there was one health related service or several health related services listed on the student's IEP. We believe this to be a conservative approach to the documentation issue in favor the school system.

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## INTRODUCTION

### Background

The Medicaid Program was established by Title XIX of the Social Security Act and is jointly funded by the federal and state governments to provide medical assistance to pregnant women, children, and needy individuals who are aged, blind or disabled. Within broad federal guidelines, states design and administer the program under the general oversight of the Centers for Medicare and Medicaid Services (CMS). In Massachusetts, the Division of Medical Assistance (DMA) is the state agency responsible for administering the Medicaid program. The DMA contracts with the University of Massachusetts Medical School, Center for Health Care Financing, Municipal Medicaid to administer the school-based health services portion of the Medicaid program.

School-based health services reimbursable under the Medicaid program are provided by or through the Massachusetts Department of Education or a local education agency to students with special needs pursuant to an Individualized Education Plan (IEP). Services are provided in the school setting or another site in the community and include speech therapy, physical therapy, occupational therapy, audiological services, behavior management and/or counseling. The IEP describes the special education and related services, including school-based health services, which the student requires. An IEP must be in compliance with the Individuals with Disabilities Education Act (IDEA), P.L. 94-142, as amended, and in compliance with requirements of regulations implementing Chapter 766 of the Acts of 1972, M.G.L., Chapter 71B, as amended.

To seek Medicaid reimbursement for school-based health services, school districts must:

- Have a provider agreement with the DMA;
- Determine whether the student is enrolled in the Medicaid program;
- Provide services pursuant to a valid IEP that is in compliance with all Chapter 766 requirements (the Massachusetts special education law;)
- Assemble and complete documentation that any Medicaid covered service in the IEP has been delivered by a qualified provider before the Medicaid claim is submitted to UNISYS (the DMA Medicaid claims agent) for federal reimbursement;
- Comply with the Massachusetts Department of Education and DMA requirements concerning the authorization to share information with the DMA; and
- Submit a claim for reimbursement that details the student, dates of attendance, CMS procedure codes (level-of-service) and rates. (School districts submit claiming documents to UNISYS in order to obtain federal reimbursement.)

Massachusetts reimburses school districts for school-based health services based on the number of days in attendance times a statewide per diem rate for the program prototype per the student's IEP. According to the Massachusetts state Medicaid plan, the per diem rate is based on the Medicaid fee-for-service rate for each service and a statistically representative utilization rate for those services.

The Haverhill Public Schools, a local education agency located in Haverhill, Massachusetts, operated 22 public schools and contracted with approximately 27 private schools during our audit period. Of approximately 8,592 students who attended the Haverhill Public Schools during our audit period, 598 students received special education services for which the school system submitted reimbursement claims to the Commonwealth of Massachusetts' Medicaid program. The Haverhill Public Schools contracted with the University of Massachusetts to prepare and submit its Medicaid claims for school-based health services.

### **Objective, Scope and Methodology**

The objective of our audit was to determine whether costs claimed for school-based health services by the Haverhill Public Schools through the Commonwealth of Massachusetts were reasonable, allowable and adequately supported in accordance with the terms of the state Medicaid plan and applicable federal regulations. Specifically, our audit included, but was not limited to, recipient and provider eligibility, payment rates and billing processes. The audit period included Medicaid payments made during the period July 1, 1999 through June 30, 2000.

To accomplish our audit objective, we:

- Reviewed federal and state laws, regulations and guidelines pertaining to the Medicaid program and special education related to school-based health services. We also reviewed the Commonwealth of Massachusetts state plan amendment 92-14 that describes the Department of Public Welfare's procedure for reimbursing school-based special needs services.
- Obtained an understanding of the Haverhill Public Schools' internal controls relative to recipient eligibility, provider qualifications, payment rates, and billing processes.
- Identified all individual claims made for days when the Haverhill Public Schools were not in session, including holidays (e.g., Thanksgiving, Christmas and Memorial Day), winter and spring vacations, professional in-service days, and snow and emergency days. We did not review claims for residential or preschool placements.
- Selected from a population of 2,918 recipient months (federal share totaling \$253, 287), a simple random sample of 100 recipient months representing claims totaling a federal share of \$8,129 in Medicaid claims paid during the period July 1999 through June 2000 for school-based health services in the Haverhill Public Schools.
- Obtained and analyzed information from the Haverhill Public Schools which supported claims for Medicaid reimbursement, including student eligibility for Medicaid, parental consent to bill Medicaid, student IEPs, student attendance and provider qualifications.
- Held discussions with officials from the Haverhill Public Schools.

Our audit was conducted in accordance with generally accepted government auditing standards. We performed our fieldwork at the Haverhill Public Schools in Haverhill, Massachusetts during the period January through July 2002. See Appendix C for Haverhill Public Schools' comments in their entirety.

## **FINDINGS AND RECOMMENDATIONS**

In Massachusetts, claims for school-based health services are based on a daily per diem rate for the prototype (level-of-service) developed in each Medicaid eligible student's IEP. However, we identified internal control weaknesses that need to be improved to ensure that the Haverhill Public Schools appropriately submits Medicaid claims for school-based health services. In this regard, each school district must have accurate attendance records, a valid IEP for each student, an appropriate and accurate prototype, qualified Medicaid health care providers, and evidence that any Medicaid covered service in the IEP has been delivered before the Medicaid claim is submitted for federal reimbursement. Relative to our review of Medicaid claims in randomly selected months, we estimate that the Haverhill Public Schools were inappropriately overpaid at least \$81,902 (federal share). The Haverhill Public Schools did not design a system of controls to ensure that school-based health records were assembled and maintained to support the dates and type of Medical services provided.

Further, the Haverhill Public Schools did not always obtain an "authorization" signed by either a parent or guardian to share information with the DMA for the purpose of submitting claims for Medicaid reimbursement for school-based health services. Accordingly, we have no assurance that a significant number of parents of special education students attending the Haverhill Public Schools were informed about or gave consent to sharing their child's confidential information with the state Medicaid agency. This Requirement does not preclude the state agency from billing Medicaid for school-based health services.

## **REVIEW OF MEDICAID CLAIMS**

As part of our review of the appropriateness of payments to the Haverhill Public Schools under the Medicaid program for school-based health care services, we reviewed payments totaling \$8,129 (federal share) for a random sample of months for 100 recipients paid during the period July 1999 through June 2000. We also reviewed all payments for days when the Schools were not in session.

We found that for payments contained in 49 of the 100 months reviewed, the Haverhill Public Schools claimed \$3,684 for school-based health services when: (1) services were rendered by providers that did not have the qualifications required by Massachusetts Medicaid regulations (33 sample months), (2) the Haverhill Public Schools did not locate any documentation demonstrating that services prescribed in the IEP were delivered (15 sample months), and (3) the student was absent and did not receive services for at least one day (1 sample month). (See APPENDIX A). As a result, we estimate that the Haverhill Public Schools were overpaid at least \$81,902 (federal share). (See APPENDIX B.) We also found that the Haverhill Public Schools had implemented procedures that appropriately prevented claims for school-based services on days when the schools were not in session.

### **Medicaid Provider Qualifications**

For 33 of the 100 sample months reviewed the Haverhill Public Schools claimed \$2,543 in daily per diem rates for school-based health services rendered by providers that did not have the qualifications required by Massachusetts Medicaid regulations. We reviewed the qualifications for 51 providers that the Haverhill Public Schools employed to provide health services to special education students during our audit period. We found that 20 of the 51 providers (39 percent) did not have the qualifications (licenses) required by Massachusetts Medicaid regulations.

Based on the provisions of pages 15 and 16 of CMS's *Medicaid and School Health: A Technical Assistance Guide*, dated August 1997, the services rendered by the 20 providers are not reimbursable under the Medicaid program. Specifically, the technical assistance guide provides that: "In order for schools or school providers to participate in the Medicaid program and receive Medicaid reimbursement, they must meet the Medicaid provider qualifications. It is not sufficient for a state to use Department of Education provider qualifications for reimbursement of Medicaid-covered school health services.... Any entity wishing to become a provider of Medicaid services, including schools or school districts, must be qualified to enroll to provide those services. Some Medicaid provider qualifications are dictated by the federal Medicaid program by regulation, while other provider qualifications are established by the state.... Where a school or school district provides a variety of Medicaid covered services, the school must meet all federal and state provider qualifications associated with each service it provides.... Schools may enroll as Medicaid providers, either by qualifying to provide services directly, or, under certain conditions, by contracting with independent practitioners to provide the services...."

Haverhill Public Schools officials advised us that they were not aware that there are differences in provider qualifications between state education regulations and state Medicaid regulations. In this regard, the education regulations allow some types of providers to render services if they are certified by the state department of education, while the Medicaid regulations require a license from the state board of registration for that type of provider. For example, of the 20 providers that we found to be unqualified, Haverhill employed 13 psychologists during our audit period. All of these 13 psychologists were certified by the state department of education as "school psychologists." Three of these providers were also licensed by the state as "education psychologists".

### **Documentation of Services Delivered**

For 15 of the 100 sample months reviewed, the Haverhill Public Schools claimed the daily per diem rate for school-based health services amounting to \$1,136 for which the school system did not maintain any documentation that services prescribed in the IEP were delivered. Specifically, the school system could not locate case/encounter notes for dates of service or progress notes spanning the sample month.

Page 40 of CMS's *Medicaid and School Health: A Technical Assistance Guide*, dated August 1997, states: "...A school, as a provider, must keep organized and confidential records that details client specific information regarding all specific services provided for each individual recipient of services and retain those records for review.... Relevant documentation includes the dates of service...." In addition, the Commonwealth of Massachusetts' *Operational Guide for School Districts*, revised May 1995, requires that in addition to attendance records, schools assemble and complete documentation that any Medicaid covered service in the IEP has been delivered before the Medicaid claim is submitted to UNISYS for federal reimbursement. Further, in the provider agreement the Haverhill Public Schools entered into with the DMA, the Haverhill Public Schools agreed to "... keep such records as are necessary to disclose fully the extent of the services to recipients and to preserve these records for a minimum period of six years...."

Accordingly, for the 15 sample months for which the Haverhill Public Schools could neither locate case/encounter notes for dates of service nor progress notes spanning the sample month, the Haverhill Public Schools could not provide the required documented assurance that services prescribed in the IEP were delivered.

Haverhill Public Schools officials advised us that their health service providers usually maintain a service logbook, during the year, which contains information on the specific health services provided to each student. However, the logbooks were being discarded at the end of each year and were unavailable for our review. The Haverhill Public Schools has recently instructed its health service providers to maintain the logbooks as part of its permanent records.

### **Student Absences**

In Massachusetts, claims for school-based health services are based on a daily per diem rate for the prototype developed in each Medicaid eligible student's IEP. The local educational agency is entitled to bill Medicaid the per diem for each day the student attended school. In this regard, page 9 of the Massachusetts Municipal Medicaid Billing Guide provides that Medicaid providers should include in the span of dates (dates for which reimbursement is sought) only those days that the recipient was present in school. Do not bill for (emphasis added) weekends, sick days, vacations, or holidays unless the recipient is in a residential placement and was present in school.

For 1 of the 100 sample months reviewed, the Haverhill Public Schools claimed the daily per diem rate for school-based health services amounting to \$6 when the student was absent and did not receive services for at least one day. In this regard, the attendance record used to bill Medicaid in this case differed from original attendance records provided by the Haverhill Public Schools. We were unable to determine why the attendance information was different. We did not review attendance records maintained by individual teachers, as the Haverhill Public Schools does not retain these records.

## **Recommendations**

We recommend that the Haverhill Public Schools:

- Research Medicaid eligibility for all current health service providers and establish procedures to ensure that all health services are rendered by Medicaid eligible providers,
- Develop written policies and procedures requiring service providers to document all health services delivered to Medicaid recipients which details client specific information regarding all specific services actually provided for each individual recipient of services and retain those records for review,
- Establish procedures to ensure that Medicaid billings are based on accurate attendance records that support the students' presence to receive services, and
- Refund through the DMA, the \$81,902 that was inappropriately paid by the Medicaid program to the Haverhill Public Schools.

## **Auditee Response**

In their response to the audit report, Haverhill Public Schools officials disagreed with the findings and recommendations relative to: services rendered by providers (psychologists and speech therapists) that did not have the qualifications required by Massachusetts Medicaid regulations, and claims for which the school system did not locate any documentation to demonstrate that services prescribed in the IEP were delivered. Further, school officials stated they were in compliance with guidance provided by: DOE relative to psychologists working in the education setting, and DMA relative to the school system's method of documenting services delivered. Further, they acknowledge that the terms of their provider agreement with DMA require that the school department maintain a medical record. However, they stated that at no point was the maintenance of such a record tied to the school ability to file a claim for reimbursement. School officials assert that service logbooks were maintained by health service providers but were typically discarded at the end of the year. Based on the fact that we recommended a financial refund of the entire amount of the per diem rate when there was no documentation, the Haverhill Public Schools question our understanding of the nature of the per diem rate system. They question whether the audit approach is flawed and the financial refund recommendation has a relationship to the cost component reflected in the per diem rate that applies to the specific medical service. School officials agreed with the findings and recommendations with respect to the student absence.

## **Additional OAS Comments**

Relative to Haverhill Public Schools' understanding of guidance provided by state agencies regarding provider qualifications and documentation requirements, in the provider agreement that the Haverhill Public Schools entered into with the DMA, the Haverhill Public Schools agreed "...To comply with all state and federal statutes, rules, and regulations applicable to participation in the Medical Assistance Program...To furnish the Department [DMA] and any

duly authorized state and federal officials...with such information, including copies of medical records, regarding any services for which payment was claimed from the Department...”

OAS’ approach regarding no documentation supporting services delivered, was to accept documentation for one health related service as justifying the claim whether there was one health related service or several health related services listed on the student’s IEP. We believe this to be a conservative approach to the documentation issue in favor the school system.

### **OTHER MATTERS**

We found that in 48 of the 100 sample months that we reviewed, the Haverhill Public Schools did not obtain an “authorization” signed by either a parent or guardian to share information with the DMA for the purpose of submitting claims for Medicaid reimbursement for school-based health services. Not obtaining written authorization to share educational information with the DMA is contrary to the Federal Family Educational Rights and Privacy Act, IDEA, Chapter 766 (the Massachusetts special education law), and DMA instructions, (*Operational Guide for School Districts*, revised May 1995). Haverhill officials told us that they did attempt to obtain the authorizations at the team meeting to develop the IEP and/or in a mailing to the parents or guardian explaining that parental/guardian permission is required for the schools to bill Medicaid.

We also found that authorization forms for 6 out of the 52 remaining sample items, where the Haverhill Public Schools did obtain authorizations to share information, were not in the primary language of the students’ homes, as required by Chapter 766 and recorded on the IEP. Haverhill officials told us that the language used on the authorization form was English.

Accordingly, we have no assurance that a significant number of parents of special education students attending the Haverhill Public Schools were informed about or gave consent to sharing their child’s confidential information with the state Medicaid agency. This requirement does not preclude the state agency from billing Medicaid for school-based health services. The Haverhill Public Schools believe that they are now in compliance with the requirement to develop procedures to ensure that authorization is obtained prior to sharing information with Medicaid and plans to request parental consent in the primary language of the home.

## **APPENDICES**



SCHEDULE OF SAMPLE ITEMS

CIN: A-01-02-00007

APPENDIX A

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Sample Number	Provider Qualifications		Documentation		Inaccurate Attendance			Totals	
	Not Qual	Dollars	None	Dollars	Error	Days	Dollars	Error	Dollars
54	yes	\$30.70						1	\$30.70
55	yes	\$16.71						1	\$16.71
56									\$0.00
57			yes	\$89.12				1	\$89.12
58	yes	\$83.55						1	\$83.55
59	yes	\$128.11						1	\$128.11
60	yes	\$15.35						1	\$15.35
61									\$0.00
62			yes	\$50.13				1	\$50.13
63	yes	\$72.41						1	\$72.41
64			yes	\$94.69				1	\$94.69
65	yes	\$94.69						1	\$94.69
66	yes	\$77.98						1	\$77.98
67			yes	\$72.41				1	\$72.41
68	yes	\$126.75						1	\$126.75
69									\$0.00
70	yes	\$116.97						1	\$116.97
71									\$0.00
72									\$0.00
73	yes	\$128.11						1	\$128.11
74	yes	\$268.18						1	\$268.18
75									\$0.00
76									\$0.00
77									\$0.00
78			yes	\$16.71				1	\$16.71
79	yes	\$89.12						1	\$89.12
80	yes	\$15.35						1	\$15.35
81									\$0.00
82									\$0.00
83	yes	\$100.26						1	\$100.26
84			yes	\$77.98				1	\$77.98
85									\$0.00
86									\$0.00
87	yes	\$16.71						1	\$16.71
88	yes	\$195.04						1	\$195.04
89									\$0.00
90									\$0.00
91	yes	\$94.69						1	\$94.69
92									\$0.00
93									\$0.00
94									\$0.00
95									\$0.00
96	yes	\$100.26						1	\$100.26
97			yes	\$33.42				1	\$33.42
98			yes	\$77.98				1	\$77.98
99	yes	\$61.27						1	\$61.27
100			yes	\$36.57				1	\$36.57
<b>Totals</b>	<b>33</b>	<b>\$2,542.98</b>	<b>15</b>	<b>\$1,135.73</b>	<b>1</b>	<b>1</b>	<b>\$5.57</b>	<b>49</b>	<b>\$3,684.28</b>

**Results of Statistical Sample**

Sample Size	100
Value of Sample	\$8,129
Number of Errors	49
Value of Errors	\$3,684
Population Size	2,918
Value of Population	\$253,287

Point Estimate	\$107,507
Confidence Level	90%
Lower Confidence Limit	\$81,902
Upper Confidence Limit	\$133,113
Sample Precision	+/- 23.82%

Based on our statistical sample, we are 95 percent confident that the amount overpaid was at least \$81,902 (federal share).



## *Haverhill Public Schools*

October 24, 2002

Mr. Joseph Kwiatanowski  
Office of Inspector General  
Office of Audit Services, Region I  
JFK Federal Building, Room 2425  
Boston, Massachusetts 02203

**RE: C.I.N. A-01-02-0007**

Dear Mr. Kwiatanowski:

I am in receipt of your draft audit report, above referenced, regarding your review of the city of Haverhill's Medicaid school-based billing program for the period July 1999 through June 2000. This letter reflects the school department's response to the findings that you have made as part of your preliminary report. Our response is structured according to the major findings that have been made during the course of your office's review.

### Documentation for Services Provided

The school department for the city of Haverhill believes that it fully complied with all documentation requirements needed to support its claims for medical-related services it has provided to the Medicaid eligible special education student population. As a result, we disagree with the findings that you have made with respect to the absence of documentation for medical services provided to the students represented in your sample of cases and find that your recommendation that a financial penalty be imposed to be unwarranted.

Our primary source of guidance for these requirements is the *Operational Guide for School Districts* (September 1993, revised in May, 1995). The guide specifies that to assemble and complete a claim a school district must have (1) an attendance record (which may be a standard school attendance calendar); (2) documentation that any Medicaid covered service in a student's Individualized Education Program (IEP) has been delivered and paid (in the case of services provided by a public school, services have been paid once payroll has been paid); and, (3) complete and submit an Invoice 9 form. Completion requires that a school use its individual Provider Number, student's

Medicaid number, and days of attendance certified by attendance calendars. One Invoice 9 form must be submitted for each pupil for whom a claim is filed. See *Guide* at 9.

The school department in Haverhill has relied on the instructions in the *Operational Guide* during the seven-year period that it has participated in Medicaid school-based claiming. The department has never received different or supplemental instructions nor at any point has it been informed that its practices were non-compliant or deficient. With the exception of one day for one student in the sample cases that your office has reviewed (see Student Absences, below), school department personnel have complied in all respects with the requirements needed to support a claim for services.

Your office, however, has concluded that there is an additional documentation requirement to support a claim for payment of services provided by a school district. That added requirement is the need for the school to maintain a medical service record respecting any service provided to a student for whom a claim is filed in order for federal reimbursement to be secured.

Although we acknowledge that by the terms of the Provider Agreement executed between the city of Haverhill and the Division of Medical Assistance (DMA) that the school department was obligated to maintain a medical record and provide such record to a responsible state or federal official upon request (See Provider Agreement, Section II), at no point is the maintenance of such a record tied to the ability of our schools to file a claim for federal reimbursement for services that have been provided to eligible students. This raises the question as to whether your office's findings on this issue should be a matter that has a financial penalty associated with it.

Nevertheless, despite the fact that your office has requested documentation regarding medical services to students that is over three years old, we have been able to satisfy your requests for documentation of services in 85% of the cases that you have reviewed. For nearly all of the balance of the cases, we have provided assessment reports or other documents that reflect the progress made by a special education student in specific areas of development related to a student's needs as identified in their IEP. It is our belief that those documents point to the consistent delivery of services to a student over the period of time covered in the assessment report. Regrettably, your office has rejected this proffer of evidence and has concluded that the assessment reports are not adequate for your audit purposes.

As well, as we have previously described to you, service logbooks were maintained by health service providers to document services but these logs were typically discarded at the end of the school year. [We had already issued instructions that these records be maintained prior to being informed that the OIG was auditing our program.] I am not aware why you chose to examine a period of time several years back to perform your audit, it may have been more instructive and useful had you examined the current period. Had you done so, I am confident that you would have made no findings with respect to the lack of documentation given current practices of the school department.

Further, it is our belief that your audit approach misapprehends the nature of the special education program that is administered by the public schools in Haverhill and across the Commonwealth. The implication of your findings that because documentation sufficient to satisfy your review team is not available and therefore that special education medical services were not in fact provided to students is unequivocally rejected. The special education program operates under a federal mandate that "related services" including medical services be provided to students who are identified as requiring special services to enable them to participate fully in the school environment. The school department takes this legal obligation very seriously and incorporates that obligation as part of its educational mission. The IEP is fundamentally a contract among the school, parents and students. School department personnel fulfill this contract obligation every day that schools are in session; to do otherwise would expose the school department to criticism, formal complaints and litigation. Thus, there not only is a legal mandate that the school must fulfill but also strong disincentives that the mandate be met.

Finally, although I am not expert in this arena, I question whether your office has also misapprehended the nature of the per diem rate system in place in Massachusetts. I say this because with respect to your calculation of a recommended financial penalty, it appears that when you haven't received documentation for a sample case sufficient to meet your audit requirements, you have recommended a financial sanction of the entire amount of the per diem rate.

However, as you describe in the draft audit report, "...the per diem rate is based on the Medicaid fee-for-service rate for each service and a statistically representative utilization rate for the services." Draft Report at 1. That being the case, the OIG's financial calculations of a recommended penalty appears to inappropriately link the absence of a medical record for a particular service described in an IEP to the entire amount of the per diem rate claimed. On its face then, it raises the substantial question as to whether this audit approach is flawed and that your financial penalty recommendations have no relationship to the cost component reflected in the per diem rate that applies to that specific medical service.

#### Provider Qualifications

Your office has also made a recommendation that a substantial financial penalty be imposed on the city of Haverhill for its alleged failure to comply with Medicaid provider qualifications. Although your draft report does not provide a specific reference to those Medicaid regulations, your report does assert that the school department in Haverhill should have been ensuring that its school psychologists were licensed by the Massachusetts Board of Registration; instead, a number of the psychologists, as your report discloses, held a certification through the Department of Education only.

This issue was first raised to us in a formal fashion at an exit conference held in Haverhill on July 5<sup>th</sup> of this year. At that time, representatives from the OIG indicated that any

findings with respect to provider qualifications would be as to matters of program compliance only. School department officials were specifically informed that there would not be a financial penalty regarding the findings that you were making on this issue; instead, the school would need to agree to a series of corrective actions to be implemented prospectively. However, within approximately one week of the September 9<sup>th</sup> issuance date of the draft report, the school department was informed via a phone call that there would be a recommendation of a financial penalty related to the provider qualification finding. In fact, your draft report's recommendation in this area has the effect of nearly trebling the estimate of financial penalty you made during the exit conference. At the least, this raises fundamental questions of fairness and protocol.

From a substantive standpoint, the school department of Haverhill rejects this finding in its entirety. We make this conclusion because we are not aware of a single Medicaid regulation that specifically addresses provider qualifications related to psychologist services provided in a school setting to special education students. The basic question that needs to be addressed is the following: why is the city of Haverhill subject to a penalty for an alleged failure to comply with regulations that do not exist? In the absence of a specific regulation, the school department took a pragmatic course and adhered to the existing Department of Education regulations related to the qualifications for psychologists working in a school setting. These regulations are, to our knowledge, the only regulations that exist in the state regarding providers of these services for this population of Medicaid-eligible recipients. To our knowledge, it is those regulations that every school district in the Commonwealth adheres to. Thus, there is nothing unique in Haverhill's practice in this regard; in fact, it is common.

#### Student Absences

We do not dispute the finding with respect to the one student absence you identified among the 100 sample cases for the sample month. We have upgraded our practices since the period that your audit covered and will take your further recommendations under review and advisement.

#### Parental Authorization

Your report also finds fault with the Haverhill school department as you claim that it failed to provide your auditors with required parental authorizations to share information for submitting claims for Medicaid reimbursement for health-related services. This requirement is the subject of interrelated federal and state mandates. Your finding in the draft audit report is one of program compliance and does not carry with it a recommendation of financial penalty.

As we have indicated to you during the course of your engagement, this failure is related to a 100% turnover in administrative staff in the school department offices and does not reflect that the school department has been billing Medicaid in the absence of a parental

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authorization. Again, I return to the issue of the audit period you reviewed (three years back); this issue would not have arisen had you examined a more recent period of time.

The school department maintains an electronic file for Medicaid-eligible special education students that contains a field where the receipt of a parental authorization is tracked. A recent review of this file has disclosed that there are 487 Medicaid-eligible special education students for whom no Medicaid billing is performed due to the absence of a parental authorization to bill. Clearly then, the Haverhill school department does not engage in a practice of billing for these students in the absence of the required parental authorization. As a result, we are already in compliance with one of your recommendations in the audit report. We acknowledge, however, that you have identified an issue regarding making the necessary authorizations available in the primary language of the students' homes and are implementing procedures to remedy this deficiency.

In light of our responses to your draft findings, I am not certain where we go from here. I trust that you will give our responses due consideration and it is my hope that you would modify your findings after that consideration. Please contact me directly should you require additional information or follow-up on any of the points expressed in this letter. I also trust that my staff has been responsive to your requests for information and have worked cooperatively with your audit team.

Thank you for your attention.

Respectfully,



Arthur W. Tate, Jr., Ed.D.  
Superintendent of Schools

## ACKNOWLEDGMENTS

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