



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of Inspector General

Washington, D.C. 20201

FEB 13 2004

TO: Wynethea Walker
Acting Director, Audit Liaison Staff
Centers for Medicare & Medicaid Services

FROM: Dennis J. Duquette 
Deputy Inspector General
for Audit Services

SUBJECT: Medicaid Payments for School-Based Health Services, Rhode Island, for the
Period July 1999 Through June 2001 (A-01-02-00014)

We are alerting you to the issuance of the subject final audit report within 5 business days from the date of this memorandum. A copy of the report is attached. This report is one of a series of audits of costs claimed by States for Medicaid school-based health services. We are conducting these audits in response to concerns raised by officials from the Centers for Medicare & Medicaid Services (CMS) and the Office of Management and Budget. We suggest you share this report with the Center for Medicaid and State Operations and any other components of CMS involved with Medicaid program integrity and provider issues.

Our audit objective was to determine whether costs claimed for school-based health services by Rhode Island were allowable under the terms of the State Medicaid plan and applicable Federal or State requirements.

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 need-based medical assistance to pregnant women, children, and individuals who are aged, blind, or disabled. Within broad Federal guidelines, States design and administer the program under the general oversight of CMS.

School-based health services reimbursable under the Medicaid program are provided by or through the local education agency to students with special needs pursuant to an individualized education plan (child's plan). A State may receive Medicaid funding for services included in a child's plan as long as: (1) the services are listed in section 1905(a) of the Social Security Act and are medically necessary; (2) all Federal and State requirements are followed, including those for provider qualifications; and (3) the services are included in the State plan or are available under the Early and Periodic Screening, Diagnostic and Treatment Medicaid benefit. 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, counseling, and other medical services. The child's plan describes the special education and related services, including school-based health services, which the student requires. A child's plan must be in compliance with the Individuals with Disabilities Education Act, Public Law 94-142, as amended.

In Rhode Island, the Department of Human Services (State agency) is responsible for administering and supervising the Medicaid program. We reviewed a statistically valid sample of 200 medical services from the State's two largest local education agencies (Providence and Pawtucket), which represented \$8,206,109 or about one-third of the State agency's claim for school-based health services. We concluded that 83 medical services (containing 99 payment errors) did not meet Medicaid reimbursement requirements. Our audit period was July 1, 1999 through June 30, 2001 and focused on two local education agencies and State agency's oversight of the school-based program.

The two local education agencies improperly included claims for:

- undocumented or insufficiently documented services (28 errors),
- services rendered by health care providers who did not have the qualifications required by Medicaid regulations (33 errors),
- services which were inconsistent with the information contained on the child's plan (4 errors),
- students who were absent (8 errors), and
- services which were incorrectly billed (26 errors).

As a result, we estimate that at least \$1,201,193 (Federal share) was unallowable for reimbursement. Proper internal controls were not always established or sufficient because the local education agencies were not always made aware of all Medicaid billing requirements. Further, we found the State agency did not always provide sufficient oversight and monitoring of school-based services to ensure local compliance with Federal and State regulations and guidelines.

We recommended that the State agency:

- disseminate CMS guidance and other information to the local education agencies in a timely manner;
- monitor local education agencies' processing of Medicaid claims to ensure compliance with Federal and State Medicaid regulations;
- assist the local education agencies in developing written policies and procedures that require service providers to document all health services delivered to Medicaid recipients, including client-specific information on all services actually provided, and to retain those records for review;
- assist the local education agencies in strengthening procedures to ensure that Medicaid billings are based on implementation of a current child's plan, and that attendance

records support the student's presence to receive services on days when the school was open;

- research Medicaid eligibility of all current health service providers and establish procedures to ensure that health services are rendered by Medicaid-eligible providers; and
- refund to CMS the \$1,201,193 (Federal share) inappropriately paid by the Medicaid program to the Providence and Pawtucket local education agencies.

The State agency agreed with our procedural recommendations, stating that it recognized the need to review and update policy and procedures for the school-based medical services program. The State agency disagreed with our recommendation to refund the entire \$1,201,193 (Federal share) to CMS, but did not quantify the amount of funding that it believed should not be repaid.

We disagree with the State agency's position regarding the financial adjustment. We conducted individual meetings at each of the local education agencies to review details of our sample findings and made a summary presentation to high-level State agency officials. The State agency officials were also present at each of the local education agency meetings. Our recommendation to refund to CMS the \$1,201,193 inappropriately paid by the Medicaid program to the two local education agencies reflects our consideration of all information provided by the local education agencies.

In other matters, we found that the State agency provided quarterly lists of all Medicaid-eligible children in Rhode Island to each local education agency during our audit period. As a result, persons who may not have wanted their status known to school officials were denied their right to privacy in violation of Medicaid privacy regulations. We recommended that the State agency discontinue providing listings of Medicaid-eligible students to local education agencies, and monitor local education agency agreements with billing agents to ensure that all entities with access to sensitive Medicaid data are bound by confidentiality. The State agency disagreed with our position that the distribution of Medicaid beneficiary lists to the local education agencies resulted in a denial of certain individuals' right to privacy. Nevertheless, the State agency responded that it was reviewing current procedures to ensure compliance with regulations and protection of beneficiaries' right to privacy.

If you have any questions or comments about this report, please do not hesitate to call me or one of your staff may contact George M. Reeb, Assistant Inspector General for the Centers for Medicare & Medicaid Audits, at (410) 786-7104 or Michael J. Armstrong, Regional Inspector General for Audit Services, Region I, at (617) 565-2689.

Attachment



DEPARTMENT OF HEALTH & HUMAN SERVICES

OFFICE OF INSPECTOR GENERAL

FEB 18 2004

Office of Audit Services
Region I
John F. Kennedy Federal Building
Boston, MA 02203
(617) 565-2684

Report Number: A-01-02-00014

Ms. Jane A. Hayward
Director
Rhode Island Department of Human Services
600 New London Avenue
Cranston, Rhode Island 02920

Dear Ms. Hayward:

Enclosed are two copies of the Department of Health and Human Services (HHS), Office of Inspector General (OIG) report entitled "Medicaid Payments for School-Based Health Services, Rhode Island, for the Period July 1999 Through June 2001." A copy of this report will be forwarded to the action official noted below for 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 reports issued to the Department's grantees and contractors are made available to members of the press and general public to the extent the information 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-01-02-00014 in all correspondence.

Sincerely yours,

A handwritten signature in black ink that reads "Michael J. Armstrong". The signature is written in a cursive style with a large, prominent "M" and "A".

Michael J. Armstrong
Regional Inspector General
for Audit Services

Enclosures - as stated

Page 2 – Ms. Jane A. Hayward

Direct Reply to HHS Action Official:

Charlotte Yeh, M.D.

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: John Young, Associate Director for Health Care Quality, Financing and Purchasing,
Department of Human Services, State of Rhode Island

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**MEDICAID PAYMENTS FOR
SCHOOL-BASED HEALTH SERVICES
RHODE ISLAND
FOR THE PERIOD
JULY 1999 THROUGH JUNE 2001**



**FEBRUARY 2004
A-01-02-00014**

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 need-based medical assistance to pregnant women, children, and individuals who are aged, blind, or disabled. School-based health services reimbursable under the Medicaid program are provided by local education agencies to students with special needs pursuant to a child's individualized education plan (child's plan). The child's plan describes the special education and related services, including school-based health services, which the student requires. 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, counseling, and other medical services.

Of the 34 local education agencies in Rhode Island, 33 submitted claims for 33,884 students receiving special education. On behalf of these students, the 33 local education agencies were reimbursed \$26,135,945 (Federal share) under Rhode Island's Medicaid program during the period July 1, 1999 through June 30, 2001. In Rhode Island, the Department of Human Services (State agency) is designated to administer or supervise the administration of the Medicaid program.

OBJECTIVE

Our audit objective was to determine whether costs claimed for school-based health services by the State of Rhode Island were allowable under the terms of the State Medicaid plan and applicable Federal requirements. Our review covered the period July 1, 1999 through June 30, 2001.

FINDINGS

We reviewed a statistically valid sample of 200 medical services from the two largest local education agencies (Providence and Pawtucket) in Rhode Island, which represented \$8,206,109 or about one-third of the State agency's claim for school-based health services. We concluded that 83 medical services (containing 99 payment errors) did not meet Medicaid reimbursement requirements. Specifically, we found the following deficiencies:

- Sufficient documentation was not always maintained to ensure that services prescribed in the child's plan were delivered (28 errors).
- School-based health services were rendered by health care providers who did not have the qualifications required by the Centers for Medicare & Medicaid Services (CMS) Medicaid regulations (33 errors).
- Inconsistencies existed between the child's plan and medical services performed (four errors).

- Claims were submitted for students who were absent (eight errors).
- Medicaid was sometimes incorrectly billed, either for an ineligible student or for medical services that were unallowable based on billing regulations (26 errors).

As a result, we estimate that at least \$1,201,193 (Federal share) was unallowable for reimbursement. Proper internal controls were not always established or sufficient because the local education agencies were not always made aware of all Medicaid billing requirements. Further, we found the State agency did not always provide sufficient oversight and monitoring of school-based services to ensure local compliance with Federal and State regulations/guidelines.

RECOMMENDATIONS

To preclude unallowable claims, we recommended that the State agency:

- disseminate CMS guidance and other information to the local education agencies in a timely manner;
- monitor local education agency processing of Medicaid claims to ensure compliance with Federal and State Medicaid regulations;
- assist the local education agencies in developing written policies and procedures that require service providers to document all health services delivered to Medicaid recipients, including client-specific information on all services actually provided, and to retain those records for review;
- assist the local education agencies in strengthening procedures to ensure that Medicaid billings are based on implementation of a current child's plan, and that attendance records support the student's presence to receive services on days when the school was open;
- research Medicaid eligibility of all current health service providers and establish procedures to ensure that health services are rendered by Medicaid-eligible providers; and
- refund to CMS the \$1,201,193 (Federal share) inappropriately paid by the Medicaid program to the Providence and Pawtucket local education agencies.

STATE AGENCY COMMENTS

The State agency agreed with our procedural recommendations, stating that it recognized the need to review and update policy and procedures relative to the school-based medical services program. The State agency disagreed with our recommendation to refund the entire \$1,201,193 (Federal share) to CMS, but did not quantify the amount of funding that it believed should be repaid. The State agency's comments are summarized in the body of our report and are included in their entirety as Appendix C.

OFFICE OF INSPECTOR GENERAL RESPONSE

We disagree with the State agency's position regarding the financial adjustment. We conducted individual meetings at each of the local education agencies to review details of our sample findings followed by a summary presentation to high-level State agency officials. The State agency officials were also present at each of the local education agency meetings. Accordingly, our monetary adjustment to refund to CMS the \$1,201,193 that was inappropriately paid by the Medicaid program to the two local education agencies reflects our consideration of all information provided by the local education agencies.

OTHER MATTERS

The State agency provided quarterly lists of all Medicaid-eligible children in Rhode Island to each local education agency during our audit period. As a result, persons who may not have wanted their status known to school officials were denied their right to privacy in violation of Medicaid privacy regulations. We recommended that the State agency discontinue providing such lists to local education agencies, and monitor local education agency agreements with billing agents to ensure that all entities with access to sensitive Medicaid data are bound by confidentiality. The State agency disagreed with our position but responded that it was reviewing current procedures to ensure compliance with regulations and protection of beneficiaries' right to privacy.

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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 need-based medical assistance to pregnant women, children, and individuals who are aged, blind, or disabled. Within broad Federal guidelines, States design and administer the program under the general oversight of CMS. In Rhode Island, the Department of Human Services is responsible for administering and supervising the Medicaid program.

School-based health services reimbursable under the Medicaid program are provided by or through the local education agency to students with special needs pursuant to a child's plan. 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, counseling, and other medical services. The child's plan describes the special education and related services, including school-based health services, which the student requires. A child's plan must be in compliance with the Individuals with Disabilities Education Act, Public Law 94-142, as amended.

During our audit period, the State's 34 local education agencies served approximately 186,752 students. Of the 34 local education agencies, 33 submitted claims for 33,884 students receiving special education. The local education agencies were reimbursed \$26,135,945 (Federal share) for these students under Rhode Island's Medicaid program during the period July 1, 1999 through June 30, 2001. We reviewed two local education agencies (the Providence School System and the Pawtucket School System), which together had approximately 37,753 students during our audit period. These local education agencies submitted claims for 7,435 students, for which they were reimbursed \$8,206,109 (Federal share) under Rhode Island's Medicaid program during the audit period.

OBJECTIVE, SCOPE, AND METHODOLOGY

Objective

Our audit objective was to determine whether costs claimed for school-based health services by Rhode Island were allowable under the terms of the State Medicaid plan and applicable Federal regulations.

Scope

We selected claims data submitted by two local education agencies that were reimbursed \$8,206,109 (Federal share) during the period July 1, 1999 through June 30, 2001. We also reviewed the State agency's oversight of the school-based program.

Methodology

The methodology we used to accomplish our audit objective included the following steps:

- 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 Rhode Island State Medicaid plan, which describes the State agency's procedure for reimbursing school-based special needs services.
- We reviewed the contracts between the State agency and the two local education agencies, which establish the local education agencies' responsibilities to provide school-based medical services to Medicaid-eligible recipients within their respective school systems. We also reviewed the contract between the two local education agencies and their respective billing agents.
- We reviewed the two Rhode Island local education agencies to determine whether costs they claimed for school-based health services were allowable under the terms of the State Medicaid plan and applicable Federal regulations. The audit included Medicaid payments made between July 1, 1999 and June 30, 2001.
- From each of the two local education agencies, which had a combined population of 205,013 medical services totaling \$8,206,109 (Federal share), we selected a statistically valid sample of 100 medical services representing medical services totaling a Federal share of \$12,250 in Medicaid claims paid during our audit period for school-based health services.
- We performed a utilization analysis to check that services were not overutilized in the month of service.
- We obtained and analyzed information from the Providence and Pawtucket local education agencies and related out-of-district schools that supported claims for Medicaid reimbursement. This included student eligibility for Medicaid, a child's plan, student attendance, and provider qualifications.
- We held discussions with officials from CMS, the State agency, the Rhode Island Department of Education, and the Rhode Island Department of Health, as well as the Providence and Pawtucket local education agencies.
- We reviewed the local education agencies' internal controls relative to recipient eligibility, provider qualifications, payment rates, and billing processes.

We performed our field work at the two local education agencies and the State agency from September 2002 through April 2003. Our audit was conducted in accordance with generally accepted government auditing standards.

FINDINGS AND RECOMMENDATIONS

INELIGIBLE MEDICAID CLAIMS

The State agency claimed services that were unallowable for Medicaid reimbursement. We reviewed payments totaling \$12,250 (Federal share) for a statistically valid sample of 200 claims for medical services (100 services for each local education agency in Providence and Pawtucket) that were paid during the period July 1999 through June 2001. For the 200 medical services claims reviewed, the local education agencies claimed \$3,645 (Federal share) for unallowable reimbursements (Providence, \$894; Pawtucket, \$2,751) for 83 medical services. These claims contained 99 payment errors.

These reimbursements for school-based health services were unallowable for the following reasons:

- The local education agencies did not maintain sufficient documentation demonstrating that Medicaid services prescribed in the child's plan were delivered (28 samples).
- Services were rendered by providers who did not have the qualifications required by State and Federal Medicaid regulations (33 samples).
- There were inconsistencies between the child's plan and the medical services provided (four samples).
- The student was absent from school on the day of service (eight samples).
- Medicaid was billed incorrectly, either for an ineligible student or for medical services which were unallowable based on billing regulations (26 samples).

While some of the sampled medical services for which we recommended a disallowance had more than one error condition, we did not question more than 100 percent of the Medicaid reimbursement amount for those medical services. We estimated that for the Providence and Pawtucket local education agencies, at least \$1,201,193 (Federal share) was unallowable for reimbursement (Providence, \$589,523; Pawtucket, \$611,670). Schedules of the sample items reviewed for both local education agencies are contained in Appendices A-1 and A-2. Details of our statistical estimates are contained in Appendices B-1 and B-2.

Documentation of Services Delivered

Federal regulation found at 42 CFR § 433.32(b), "Fiscal Policies and Accountability," establishes the records retention requirement for Title XIX. The section requires agencies to ". . . Retain records for 3 years from date of submission of a final expenditure report. . . ." This requirement was also reflected in the contract between the State agency and the local education agency and in the State agency's "Provider Reference Manual," published in October 1993.

The CMS’s “Medicaid and School Health: A Technical Assistance Guide” (CMS technical assistance guide), dated August 1997, page 41, states that “A school, as a provider, must keep organized and confidential records that detail 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. . . .”

Among the 200 medical services sampled, we found 28 in which documentation did not support claims that medical services were rendered by occupational therapists, speech therapists, and personal care attendants. In 13 instances, we found no documentation (such as progress notes, billing logs, or other evidence) to indicate which provider rendered the service to the student on the date in question. The remaining 15 samples lacked sufficient evidence of supervision for medical services performed by certified occupational therapy assistants as required by 42 CFR § 440.110(2). While local education agency officials stressed the fact that Rhode Island Department of Health regulations do not require signatures attesting to supervision of certified occupational therapy assistants, they were unable to provide us with any other evidence that the medical service was properly supervised. Accordingly, the 28 medical services reviewed did not meet the documentation requirements for Medicaid reimbursement.

Officials at both local education agencies informed us that they were aware of Medicaid requirements to retain documentation for 3 years. However, officials at the Providence and Pawtucket local education agencies stated that they have received minimal guidance from the State agency with regard to the specific types of documentation they should maintain to support Medicaid claims for various services. As a result, the procedures and controls local education agencies used to ensure that services were properly supported fell short of requirements for Medicaid reimbursement.

Medicaid Provider Qualifications

The CMS technical assistance guide, page 15, states 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.”

The CMS technical assistance guide further states as follows (page 16):

Further, Medicaid regulations [42 CFR § 440.240] require that provider qualifications be uniform and standard. This means that states cannot have one set of provider qualifications for school providers and another set of provider qualifications for all other providers. Schools should check with the state Medicaid agency to determine specific state requirements regarding provider qualifications for participation in the Medicaid program.

42 CFR § 440.110(c)(2) states the following:

A speech pathologist or audiologist is an individual who –

- (i) Has a certificate of clinical competence from the American Speech and Hearing Association [ASHA];
- (ii) Has completed the equivalent educational requirements and work experience necessary for the certificate; or
- (iii) Has completed the academic program and is acquiring supervised work experience to qualify for the certificate.

According to CMS requirements, to be eligible to bill Medicaid, a speech pathologist must be ASHA-certified unless the State's Attorney General has ruled that the State's provider qualifications (established by its Department of Education) are equivalent to those required to bill Medicaid--that is, are equivalent to ASHA certification. In Rhode Island, the Department of Health is responsible for issuing licenses to medical providers including speech pathologists, occupational therapists, physical therapists, psychologists, and social workers.

For the 200 medical services we sampled, in 33 instances (15 for Providence and 18 for Pawtucket) we were unable to verify the provider's professional license with the Rhode Island Department of Health. Of those 33 instances, 27 involved providers of speech services, 5 involved providers of psychological services, and 1 involved a counselor. For the 27 instances involving providers of speech services, we were unable to verify that individuals providing these services had earned a certificate of clinical competence from ASHA. Accordingly, the 33 medical services we reviewed did not meet the provider qualification requirements for Medicaid reimbursement.

Since the local education agencies have presented no evidence that the Rhode Island Attorney General ruled that qualifications of speech providers included in our sample were equivalent to ASHA certification, we believe that it was not appropriate to bill these services for Medicaid reimbursement.

The Director of Special Education at the Rhode Island Department of Education informed us that his department sets the qualification standards for providers of school-based speech, psychology, and social services. Officials at both Providence and Pawtucket local education agencies told us they believed that providers of school-based medical services were only required to meet Rhode Island Department of Education qualifications for the local education agency to be eligible to bill Medicaid for those services. The State agency did not inform local education agencies that providers of school-based medical services need additional credentials to qualify for Medicaid reimbursement. In the absence of the State agency guidance, the local education agencies continued to assume that providers of school-based medical services only needed to meet Rhode Island Department of Education qualifications for a medical service to be reimbursed through Medicaid.

Child's Plan

In order for a local education agency to bill Medicaid for medical and transportation services, Federal guidelines require that the service be delivered in accordance with the child's plan. The CMS technical assistance guide, page 14, states that:

As schools and districts are aware, under Part B of [The Individuals with Disabilities Education Act] IDEA school districts must prepare an IEP [individualized education plan] for each child which specifies all special education and "related services" needed by the child. The Medicaid program can pay for some of the "health related services" required by Part B of IDEA in an IEP, if they are among the services specified in Medicaid law.

The CMS technical assistance guide, page 15, states that:

. . . HCFA [CMS] policy is that health-related services included in a child's IEP. . . can be covered under Medicaid if all relevant statutory and regulatory requirements are met. A state may cover services often included in an IEP. . . as long as: 1) the services are medically necessary and coverable under a Medicaid coverage category (speech therapy, physical therapy, etc.); 2) all other Federal and state regulations are followed, including those for provider qualifications, comparability of services and the amount, duration and scope provisions; and 3) the services are included in the state's plan or available under EPSDT [Early Periodic Screening, Diagnosis and Treatment]. . .

Among the 200 medical services we sampled, we found four instances (three in Providence and one in Pawtucket) flawed by one of the following errors: there was no child's plan, the medical service performed was not ordered on the child's plan, or the service was improperly ordered on the child's plan. Accordingly, the four medical services reviewed did not meet the child's plan consistency requirements for Medicaid reimbursement.

We believe that the child's plan-related errors occurred because neither local education agency had a review process to ensure that services charged to Medicaid were included on the child's plan. In two cases, it appeared that the individual ordering the service was not correctly interpreting the State agency guidelines. In one instance, a translator was ordered as a personal care attendant service. In the other instance, an educational referral for "spelling" was ordered as a nonmedical case management service. Officials at neither local education agency were aware that screening services must be either included on the child's plan or targeted to a particular student in order to qualify for Medicaid reimbursement.

Student Absences

Federal and State requirements prescribe that the local education agencies maintain fiscal records supporting the nature and extent of medical services rendered to students. The CMS technical assistance guide states on page 41 that "A school, as a provider, must keep organized and

confidential records that detail 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.

The Rhode Island State Plan, Section 6.1, states that “The Medicaid agency and, where applicable, local agencies administering the plan, maintains an accounting system and supporting fiscal records adequate to assure that claims for Federal funds are in accord with applicable Federal requirements. The requirements of 42 CFR § 433.32 are met.”

Among the 200 medical services sampled, we found eight instances (four in Providence and four in Pawtucket) in which Medicaid was billed for medical services rendered to students who were absent from school on that date according to documentation provided by local education agency officials. Accordingly, the eight medical services reviewed did not meet the child attendance requirements for Medicaid reimbursement.

Pawtucket officials suggested that the students may have only been tardy and that the school may have erroneously recorded them as absent for the entire day. However, officials were unable to provide evidence that this scenario occurred.

Billing Errors

The CMS technical assistance guide and agreements between the State agency and local education agencies provide guidance related to transportation, Medicaid-eligible students, and proper billing. Among the 200 medical services we sampled, we found 26 instances of billing errors such as (a) transportation services rendered on a date when no health service was billed; (b) billings for students who were not Medicaid-eligible, billings for incorrect procedure codes (including upcoding), and overbilling; and (c) improper billing. Accordingly, the 26 medical services reviewed were not properly billed to qualify for Medicaid reimbursement.

Transportation

The CMS technical assistance guide clearly states on page 59 that:

. . . the Medicaid program can pay for transportation to school based services for children under IDEA when both of the following conditions are met:

- (1) The child receives transportation to obtain a Medicaid-covered service (other than transportation), and
- (2) Both the Medicaid-covered service and the need for transportation are included in the child’s IEP. . .

At the Providence local education agency, we found six instances of transportation services claimed on dates when no health service was billed, and one instance of improper billing. With regard to the six transportation services for which we are recommending disallowance, Providence officials expressed the belief that since the transportation service was rendered due to the medical condition of the student, the transportation itself qualified as a medical service reimbursable under Medicaid even if the student was not transported to a specific medical appointment. Since no medical service was rendered on the day the transportation took place, we believe amounts claimed for reimbursement are unallowable.

Medicaid-Eligible Students, Incorrect Procedure Codes, and Overbilling

Paragraph 9 of the agreement between the State agency and the Providence local education agency clearly states that “The Department agrees to pay the district for those services and activities rendered by the district to a Medicaid-eligible child in accord with the fee schedule appended to this agreement.”

At the Providence local education agency, we found two instances in which Medicaid was billed for a student who was not Medicaid eligible. At the Pawtucket local education agency, we found 16 instances in which the local education agency billed an incorrect procedure code and 1 instance of overbilling. In each of these 16 instances, the procedure code under which Medicaid was billed was inconsistent with the medical service the student actually received. Of the 16, 14 related to upcoding occupational therapy services. The Pawtucket billing agent believes that the occupational therapy upcoding was due primarily to clerical error. The instance of overbilling involved a situation in which Medicaid was billed for 22 days of transportation services in a month when the student was present for school for only 19 days. Thus, Medicaid was billed for 3 days of transportation services when the student was not at school.

Improper Billing

The CMS technical assistance guide, page 43, states that “Medicaid funds may not be used to pay for services that are available without charge to everyone in the community.”

An instance of improper billing in Providence involved billing Medicaid for screening offered free of charge to all other students in the school. An exception is made to the “free care” rule when the medical service is provided under a child’s plan or when the student has a medical referral to receive the service, but in this instance, the student had neither a child’s plan nor a referral.

SUMMARY

Based on our review of 200 medical services, we concluded that 83 (containing 99 payment errors) did not meet Medicaid reimbursement requirements. Because the local education agencies were not always made aware of all Medicaid billing requirements, proper internal controls were not always established or sufficient. Further, we found that the State agency did not always provide sufficient oversight and monitoring of school-based services to ensure local

compliance with Federal and State regulations and guidelines. Accordingly, we estimate that at least \$1,201,193 (Federal share) was unallowable for Medicaid reimbursement.

RECOMMENDATIONS

We recommended that Rhode Island:

- disseminate CMS guidance and other information to the local education agencies in a timely manner;
- monitor local education agencies' processing of Medicaid claims to ensure compliance with Federal and State Medicaid regulations;
- assist the local education agencies in developing written policies and procedures that require service providers to document all health services delivered to Medicaid recipients, including client-specific information on all services actually provided, and to retain those records for review;
- assist the local education agencies in strengthening procedures to ensure that Medicaid billings are based on implementation of a current child's plan, and that attendance records support the student's presence to receive services on days when the school was open;
- research Medicaid eligibility of all current health service providers and establish procedures to ensure that health services are rendered by Medicaid-eligible providers; and
- refund to CMS the \$1,201,193 (Federal share) inappropriately paid by the Medicaid program to the Providence and Pawtucket local education agencies.

STATE AGENCY COMMENTS

Of the five recommendations, the State agency expressed qualified agreement with two (attendance and billing errors), disagreed with one (provider qualifications), and did not comment on the remaining two (the child's plan errors and documentation errors). The State agency disagreed with our recommendation to refund the entire \$1,201,193 (Federal share) to CMS, but did not quantify the amount of its disagreement. State comments are summarized below and included in their entirety in Appendix C.

Attendance and Billing Errors

The State agency agreed that there may be potential recovery based on these two error types, but stated that specific claims in question needed to be reviewed to determine and verify that the errors were not subsequently adjusted and recovered. The State agency further stated that in such instances the formula used to impute a value considered to be ineligible would need to be updated.

Provider Qualifications

The State agency disagreed with our finding that certain health care providers were not qualified. The State agency contested our finding that it did not utilize speech pathologists, psychologists, and social workers certified by the Department of Health. For speech providers, the disagreement was based on the fact that the State of Rhode Island certified these medical service providers through both the Department of Health and the Department of Education. Accordingly, where a State's Attorney General goes on record to rule that the two certifications are equivalent, Medicaid reimbursement has been allowed for speech pathologists. The State agency further stated that the Attorney General could provide such a ruling that, in its view, is not limited to being prospective in application.

Other Comments

The State agency also disagreed with our finding that the Department's oversight of local education agency claims was less than adequate. It stated that there is no affirmative standard for such a statement, and that the finding ignored electronic and other claims testing activity that is in place. The State agency stated that it provided a number of workshops to better inform the local education agencies as to the basis for claiming. Further, both districts reviewed had the benefit of the services of bill-processing firms with stated competency in the area of Medicaid claiming.

The State agency stated that it recognizes the need to review and update policy and procedures relative to the local education agency program. The State agency did "not agree with the dissemination of 'draft' CMS guides until the final version is issued."

The State agency agreed with our procedural recommendations, stating that it recognized the need to review and update policy and procedures relative to the school-based medical services program.

OIG'S RESPONSE

We disagree with the State agency's position regarding the financial adjustment. We conducted individual meetings at each of the local education agencies to review details of our sample findings and made a summary presentation to high-level State agency officials. The State agency officials were also present at each of the local education agency meetings. Our recommendation to refund to CMS the \$1,201,193 inappropriately paid by the Medicaid program to the two local education agencies reflects our consideration of all information provided by the local education agencies, as detailed below.

Attendance and Billing Errors

Our review confirmed that the specific claims in question were not already adjusted and recovered.

Provider Qualifications

As stated in our report, speech pathologists, psychologists, and social workers who meet Department of Education but not Department of Health qualifications are allowed to render school-based medical services in Rhode Island but are not allowed to bill Medicaid for those services. The State agency stated that professional certification may be awarded through either Department and that the State Attorney General may rule that the two qualification standards are equivalent. Nevertheless, the State agency was unable to provide any evidence that such a ruling had been made during our audit nor could they provide assurance that such a ruling could be obtained in the future.

Other Comments

With regard to oversight, the quantity and types of errors we observed in our sample review, as well as feedback from local education agency officials, led us to the conclusion that the State agency's oversight was less than adequate. The State agency stated that our evaluation ignored electronic and other claims testing activity and local education agency workshops; however, the significant error rates found in our sample review at the local education agencies (31 percent in Providence and 52 percent in Pawtucket) showed that these claims testing activities need improvement. The fact that both local education agencies had the benefit of the services of firms with stated competency in the area of Medicaid claiming does not absolve the State agency of overall responsibility.

We commend the State agency for recognizing the need to review and update policy and procedures relative to the school-based medical services program. With regard to the CMS technical assistance guide, it is our position that this document represents CMS's policy and should have been disseminated to the local education agencies. One CMS official described the CMS technical assistance guide as a summary of Medicaid regulations of which State officials should already have been aware.

OTHER MATTERS

Through Electronic Data Services, the State agency's claims agent, the State agency provided each local education agency with a quarterly list, including Medicaid numbers, of all Rhode Island school children (ages 3 through 21) who were Medicaid beneficiaries or eligibles. The lists were not limited to students receiving special education. The information provided by Electronic Data Services included each child's name, address, age, Medicaid number, date of birth, eligibility dates, category of assistance, and primary care provider or health maintenance organization provider. Persons who may not want their status known to school officials were denied their right to privacy by this action.

This is contrary to guidance provided by the CMS technical assistance guide, which states that "Schools cannot receive a list of children who are Medicaid beneficiaries or eligibles, as the Medicaid Agency may not submit lists of eligibles to other agencies" (page 72). This was based on 42 CFR § 431.306, which provides that State agencies must not publish names of Medicaid applicants or recipients.

In addition, we found that the Providence local education agency did not have a written contract or a confidentiality agreement with its billing agent for the period of our audit. As a result, the billing agent had continuous access to Medicaid eligibility files and no legal obligation to maintain recipient confidentiality. We recommend that the State agency discontinue providing listings of Medicaid-eligible students to local education agencies and monitor local education agency agreements with billing agents to ensure that all entities with access to sensitive Medicaid data are bound by confidentiality.

The State agency disagrees with our position that the distribution of Medicaid beneficiary lists to the local education agencies resulted in a denial of certain individuals' right to privacy. Nevertheless, the State agency agreed to research alternative means to provide this information to the school districts, such as providing access to the Recipient Eligibility Verification System.

APPENDICES

SCHEDULE OF SAMPLE ITEMS--PROVIDENCE

Error Type

Sample Number	Documentation of Services		Provider Qualifications		Child's Plan		Attendance		Billing		Totals ¹	
	Error	Dollars	Error	Dollars	Error	Dollars	Error	Dollars	Error	Dollars	Error	Dollars
53												
54												
55												
56												
57												
58												
59												
60					1	\$ 10.76					1	\$ 10.76
61			1	\$ 9.44							1	\$ 9.44
62												
63												
64												
65												
66												
67												
68												
69			1	\$ 38.73							1	\$ 38.73
70												
71												
72			1	\$ 9.68							1	\$ 9.68
73			1	\$ 29.04							1	\$ 29.04
74												
75												
76												
77												
78												
79	1	\$ 53.77									1	\$ 53.77
80												
81												
82												
83												
84			1	\$ 9.68							1	\$ 9.68
85			1	\$ 9.68							1	\$ 9.68
86												
87												
88												
89					1	\$ 18.83					1	\$ 18.83
90			1	\$ 9.68							1	\$ 9.68
91			1	\$ 19.36							1	\$ 19.36
92												
93												
94												
95												
96												
97									1	\$ 5.38	1	\$ 5.38
98												
99							1	\$ 15.59			1	\$ 15.59
100												
	1	\$ 53.77	15	\$ 289.93	3	\$ 67.24	4	\$ 50.54	9	\$ 442.65	31	\$ 894.45

¹While some sample numbers had more than one condition, we did not question more than 100 percent of the claim.

SCHEDULE OF SAMPLE ITEMS--PAWTUCKET**Error Type**

Sample Number	Documentation of Services		Provider Qualifications		Child's Plan		Attendance		Billing		Totals ¹	
	Error	Dollars	Error	Dollars	Error	Dollars	Error	Dollars	Error	Dollars	Error	Dollars
53												
54							1	\$ 16.13		1	\$ 16.13	1 \$ 16.13
55			1	\$ 9.68								1 \$ 9.68
56	1	\$ 258.19			1	\$ 258.19						1 \$ 258.19
57												
58												
59												
60												
61	1	\$ 15.59								1	\$ 2.69	1 \$ 15.59
62	1	\$ 15.21								1	\$ 2.30	1 \$ 15.21
63	1	\$ 15.59								1	\$ 2.69	1 \$ 15.59
64												
65												
66												
67	1	\$ 258.19										1 \$ 258.19
68										1	\$ 2.30	1 \$ 2.30
69			1	\$ 20.98								1 \$ 20.98
70												
71			1	\$ 9.44								1 \$ 9.44
72												
73			1	\$ 9.68								1 \$ 9.68
74												
75			1	\$ 43.02								1 \$ 43.02
76										1	\$ 2.30	1 \$ 2.30
77												
78												
79												
80												
81			1	\$ 9.68								1 \$ 9.68
82			1	\$ 9.68								1 \$ 9.68
83												
84												
85												
86	1	\$ 15.60								1	\$ 2.69	1 \$ 15.60
87												
88												
89	1	\$ 31.19										1 \$ 31.19
90												
91	1	\$ 15.59								1	\$ 2.69	1 \$ 15.59
92	1	\$ 31.19								1	\$ 5.25	1 \$ 31.19
93	1	\$ 53.77										1 \$ 53.77
94												
95												
96												
97										1	\$ 2.69	1 \$ 2.69
98			1	\$ 9.68								1 \$ 9.68
99												
100												
	27	\$ 2,447.13	18	\$ 256.35	1	\$ 258.19	4	\$ 89.27	17	\$ 60.16	52	\$ 2,750.93

¹While some sample numbers had more than one condition, we did not question more than 100 percent of the claim.

RESULTS OF STATISTICAL SAMPLE--PROVIDENCE

Sample Size	100
Value of Sample	\$3,670
Number of Errors	31
Value of Errors	\$894
Population Size	166,391
Value of Population	\$5,436,644

Point Estimate	\$1,488,279
Confidence Level	90%
Lower Confidence Limit	\$589,523
Upper Confidence Limit	\$2,387,036
Sample Precision	+/-60.39%

Based on our statistical sample, we are 95 percent confident that the amount overpaid was at least \$589,523 (Federal share).

RESULTS OF STATISTICAL SAMPLE--PAWTUCKET

Sample Size	100
Value of Sample	\$8,580
Number of Errors	52
Value of Errors	\$2,751
Population Size	38,622
Value of Population	\$2,769,464

Point Estimate	\$1,062,464
Confidence Level	90%
Lower Confidence Limit	\$611,670
Upper Confidence Limit	\$1,513,258
Sample Precision	+/-42.43%

Based on our statistical sample, we are 95 percent confident that the amount overpaid was at least \$611,670 (Federal share).



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

Department of Human Services
DIVISION OF HEALTH CARE QUALITY,
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July 21, 2003

Michael J. Armstrong
Regional Inspector General for Audit Services
U.S. Department of Health and Human Services
Office of Audit Services
John F. Kennedy Federal Building, Room 2425
Boston, MA 02203

Re: Report A-01-02-00014

Dear Mr. Armstrong:

I am writing in response to your letter to Director Jane Hayward dated June 4, 2003 regarding your draft report, cited above. We have reviewed the report, and respond as follows:

Ineligible Medicaid Claims

The Department recognizes the need to review and update policy and procedures relative to the LEA program. The Department does not agree with the dissemination of 'draft' CMS Guides until the final version is issued.

The Department disagrees with the finding that certain health care providers were not qualified. We contest the finding of a failure to utilize certified speech pathologists, psychologist and social workers. The required certification is through the American Speech and Hearing Association (ASHA) or the Committee on Allied Health Education and Accreditation of the American Medical Association. Rhode Island has certification procedures for these specialists through the Department of Health and through the Department of Education. In accordance with 42 CFR 440.110 (c)(2)(ii), the State could find that the educational requirements for both are equivalent. Where the State's Attorney General has gone on record to rule that the DOE educational requirements for speech pathologist are equivalent to Medicaid requirements, Medicaid coverage has been allowed. It is DHS' position that the Attorney General can provide such a ruling, and that such a ruling is not limited to being prospective in application.

Michael J. Armstrong, Report A-01-02-00014
July 21, 2003

Regarding students absence and incorrect billing for Medical services, the Department agrees that there is potential recovery. However, the specific claims questioned need to be reviewed to determine and verify that the errors were not subsequently adjusted and recovered.

In both cases, the formula used to impute a value considered to be ineligible would need to be updated.

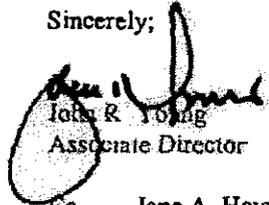
Beneficiary Listings

The Department disagrees with this finding. Medical Assistance applications inform the beneficiary that it may be necessary to provide eligibility information to providers in order to receive services. This population is extremely transient; it is not unusual for a student to move several times during one school year. The school districts need this information to adequately provide service to our recipients. The Department will review the current procedures to ensure compliance with HIPAA regulations. A review of the school districts will also be done to ensure that their contracts meet the same requirements. The Department will also research alternative means to provide this information to the school districts, such as providing access to the REVS (Recipient Eligibility Verification System).

We also disagree with the contention that the Department's oversight of LEA claiming is less than adequate. There is no affirmative standard for such a statement, and that it ignores the electronic and other claims testing activity that is in place. With respect technical assistance, the Department has provided a number of workshops to better inform the LEA's as to the basis for claiming. Further, both districts in questions have the benefit of the services of firms with stated competency in the area of Medicaid claiming.

The Department disagrees with the repayment of the \$1,201,193 as cited in this report. If the review of the claims verifies that there are no adjustments or recoveries of the claims and that errors in attendance are accurate, repayment of the Federal share will be processed in the 60 day time period.

Sincerely;



John R. Young
Associate Director

Cc Jane A. Hayward
James FitzGerald
Jacqueline G. Kelley, Esq.
Tricia Leddy
Sharon Reniere

JRY0721A