



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

January 14, 2009

Report Number: A-01-08-00010

Ms. Brenda M. Harvey
Commissioner
Maine Department of Health and Human Services
221 State Street
Station Number 11
Augusta, Maine 04333

Dear Ms. Harvey:

Enclosed is the U.S. Department of Health and Human Services (HHS), Office of Inspector General (OIG), final report entitled "Review of Medicaid Overpayments at Ledgeview Living Center for Calendar Years 2004 Through 2006." We will forward a copy of this report to the HHS action official noted on the following page for review and any action deemed necessary.

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

Pursuant to the principles of the Freedom of Information Act, 5 U.S.C. § 552, as amended by Public Law 104-231, OIG reports generally are made available to the public to the extent the information is not subject to exemptions in the Act (45 CFR part 5). Accordingly, this report will be posted on the Internet at <http://oig.hhs.gov>.

If you have any questions or comments about this report, please do not hesitate to call me, or contact George Nedder, Audit Manager, at (617) 565-3463 or through e-mail at George.Nedder@oig.hhs.gov. Please refer to report number A-01-08-00010 in all correspondence.

Sincerely,

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

Michael J. Armstrong
Regional Inspector General
for Audit Services

Enclosure

Direct Reply to HHS Action Official:

Jackie Garner, Consortium Administrator
Consortium for Medicaid and Children's Health Operations
Centers for Medicare & Medicaid Services
233 North Michigan Avenue, Suite 600
Chicago, Illinois 60601

cc: Anthony Marple
MaineCare Services Director

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**REVIEW OF
MEDICAID OVERPAYMENTS AT
LEDGEVIEW LIVING CENTER FOR
CALENDAR YEARS
2004 THROUGH 2006**



Daniel R. Levinson
Inspector General

January 2009
A-01-08-00010

Office of Inspector General

<http://oig.hhs.gov>

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

Office of Audit Services

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

Office of Evaluation and Inspections

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

Office of Investigations

The Office of Investigations (OI) conducts criminal, civil, and administrative investigations of fraud and misconduct related to HHS programs, operations, and beneficiaries. With investigators working in all 50 States and the District of Columbia, OI utilizes its resources by actively coordinating with the Department of Justice and other Federal, State, and local law enforcement authorities. The investigative efforts of OI often lead to criminal convictions, administrative sanctions, and/or civil monetary penalties.

Office of Counsel to the Inspector General

The Office of Counsel to the Inspector General (OCIG) provides general legal services to OIG, rendering advice and opinions on HHS programs and operations and providing all legal support for OIG's internal operations. OCIG represents OIG in all civil and administrative fraud and abuse cases involving HHS programs, including False Claims Act, program exclusion, and civil monetary penalty cases. In connection with these cases, OCIG also negotiates and monitors corporate integrity agreements. OCIG renders advisory opinions, issues compliance program guidance, publishes fraud alerts, and provides other guidance to the health care industry concerning the anti-kickback statute and other OIG enforcement authorities.

Notices

THIS REPORT IS AVAILABLE TO THE PUBLIC
at <http://oig.hhs.gov>

Pursuant to the principles of the Freedom of Information Act, 5 U.S.C. § 552, as amended by Public Law 104-231, Office of Inspector General reports generally are made available to the public to the extent the information is not subject to exemptions in the Act (45 CFR part 5).

OFFICE OF AUDIT SERVICES FINDINGS AND OPINIONS

The designation of financial or management practices as questionable, a recommendation for the disallowance of costs incurred or claimed, and any other conclusions and recommendations in this report represent the findings and opinions of OAS. Authorized officials of the HHS operating divisions will make final determination on these matters.

EXECUTIVE SUMMARY

BACKGROUND

The Maine Department of Health and Human Services (the State agency) is responsible for administering MaineCare, the Maine Medicaid program, in compliance with Federal and State statutes and administrative policies. The State agency reimburses nursing homes based on an established per diem rate for services provided to Medicaid beneficiaries. Pursuant to Medicaid requirements, the State agency must use any additional resources that a beneficiary has, including Social Security payments, to reduce its Medicaid payments to nursing homes. The State agency determines the amount of the beneficiary's contribution during the claims eligibility process and enters this amount into its computer system. The beneficiary's contribution is remitted directly to the nursing home each month.

When the State agency does not reduce the Medicaid per diem payment to the nursing home by the amount of the beneficiary's contribution, the nursing home could receive overpayments. Pursuant to Medicaid requirements, the nursing home must return any overpayments to the State Medicaid program, which in turn is required to refund the Federal share to the Centers for Medicare & Medicaid Services (CMS) on its next Quarterly Statement of Expenditures for the Medical Assistance Program (CMS-64).

In January 2005, the State agency implemented a new computer system to process reimbursement claims submitted by health care providers. Shortly after its release, the new system experienced serious malfunctions that resulted in incorrect payments to providers, including nursing homes.

To assist the State agency in determining the amount of incorrect payments to nursing homes, we are reviewing Medicaid claims at selected nursing homes throughout the State.

Ledgeview Living Center (Ledgeview), located in West Parish, Maine, is a Medicare- and Medicaid-certified facility whose payments were affected by the new computer system.

OBJECTIVE

Our objective was to determine whether the State agency made Medicaid overpayments to Ledgeview during calendar years 2004–2006.

SUMMARY OF FINDING

The State agency made overpayments to Ledgeview on behalf of an average of 14 Medicaid beneficiaries each month during calendar years 2004–2006. Specifically, the State agency did not adjust its Medicaid per diem payments to Ledgeview by the amount of beneficiaries' cost-of-care contributions from other resources, such as Social Security and pensions. As a result, the State agency's Federal claim was overstated by a total of \$250,444 (\$160,928 Federal share).

These errors occurred because the State agency's new computer system was unable to reduce payments to nursing homes by beneficiaries' cost-of-care contributions as appropriate and refund any collected overpayments to the Federal Government.

RECOMMENDATIONS

We recommend that the State agency:

- collect overpayments totaling \$250,444 from Ledgeview and refund the \$160,928 Federal share of these collected overpayments to CMS on its next quarterly CMS-64 and
- continue its efforts to ensure that Medicaid payments to nursing homes are identified, collected, and refunded.

MAINE DEPARTMENT OF HEALTH AND HUMAN SERVICES COMMENTS

In comments on our draft report, the State agency concurred with our finding and recommendations.

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

TABLE OF CONTENTS

	<u>Page</u>
INTRODUCTION	1
BACKGROUND	1
OBJECTIVE, SCOPE, AND METHODOLOGY	1
Objective	1
Scope.....	2
Methodology	2
FINDING AND RECOMMENDATIONS	2
FEDERAL AND STATE MEDICAID REQUIREMENTS	3
UNADJUSTED NURSING HOME PAYMENTS	3
AMOUNT OWED FEDERAL GOVERNMENT	3
CAUSE OF UNADJUSTED OVERPAYMENTS	4
RECOMMENDATIONS	4
MAINE DEPARTMENT OF HEALTH AND HUMAN SERVICES COMMENTS	4
APPENDIXES	
A - MEDICAID OVERPAYMENTS TO LEDGEVIEW LIVING CENTER, BY CALENDAR YEAR	
B - MAINE DEPARTMENT OF HEALTH AND HUMAN SERVICES COMMENTS	

INTRODUCTION

BACKGROUND

Pursuant to Title XIX of the Social Security Act (the Act), the Medicaid program provides medical assistance to low-income individuals and individuals with disabilities. The Federal and State governments jointly fund and administer the Medicaid program. At the Federal level, the Centers for Medicare & Medicaid Services (CMS) administers the program. Each State administers its Medicaid program in accordance with a CMS-approved State plan. The Maine Department of Health and Human Services (the State agency) is responsible for administering MaineCare, the Maine Medicaid program, in compliance with Federal and State statutes and administrative policies.

The State agency reimburses nursing homes based on an established per diem rate for services provided to Medicaid beneficiaries. Pursuant to Medicaid requirements, the State agency must use any additional resources that a beneficiary has, including Social Security payments, to reduce its Medicaid payments to nursing homes. The State agency determines the amount of the beneficiary's contribution to the cost of care during the claims eligibility process and enters this amount into its computer system. The beneficiary's cost-of-care contribution is remitted directly to the nursing home each month.

When the State agency does not reduce the Medicaid per diem payment to the nursing home by the amount of the beneficiary's contribution, the nursing home could receive overpayments. Pursuant to Medicaid requirements, the nursing home must return the overpayments to the State Medicaid program, which in turn is required to refund the Federal share to CMS on its next Quarterly Statement of Expenditures for the Medical Assistance Program (CMS-64).

In January 2005, the State agency implemented a new computer system to process reimbursement claims submitted by health care providers. Shortly after its release, the new system experienced serious malfunctions that resulted in incorrect payments to providers, including nursing homes.

To assist the State agency in determining the amount of incorrect payments to nursing homes, we are reviewing Medicaid claims at selected nursing homes throughout the State.

Ledgeview Living Center (Ledgeview), located in West Paris, Maine, is a Medicare- and Medicaid-certified facility whose payments were affected by the new computer system.

OBJECTIVE, SCOPE, AND METHODOLOGY

Objective

Our objective was to determine whether the State agency made Medicaid overpayments to Ledgeview during calendar years 2004–2006.

Scope

For the period January 1, 2004, through December 31, 2006, we reviewed Medicaid accounts that were at risk for having overpayments. We limited our review of internal controls to obtaining an understanding of Ledgeview's procedures for reviewing accounts and reporting overpayments to the Medicaid program.

We performed fieldwork during July–October 2008 at Ledgeview in West Paris, Maine; the State agency in Augusta, Maine; and the CMS Regional Office in Boston, Massachusetts.

Methodology

To accomplish our objective, we:

- reviewed State and Federal regulations pertaining to overpayments,
- worked with Ledgeview officials to identify credit balances in Ledgeview's accounting records that were potentially created by cost-of-care overpayments,
- reviewed Medicaid remittance advices and patient accounts to determine whether overpayments had occurred,
- determined the cause of the overpayments, and
- coordinated our audit with officials from the State agency.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our finding and conclusions based on our audit objective.

FINDING AND RECOMMENDATIONS

The State agency made overpayments to Ledgeview on behalf of an average of 14 Medicaid beneficiaries each month during calendar years 2004–2006. Specifically, the State agency did not adjust its Medicaid per diem payments to Ledgeview by the amount of beneficiaries' cost-of-care contributions from other resources, such as Social Security and pensions. As a result, the State agency's Federal claim was overstated by a total of \$250,444 (\$160,928 Federal share).

These errors occurred because the State agency's new computer system was unable to reduce payments to nursing homes by beneficiaries' cost-of-care contributions as appropriate and refund any collected overpayments to the Federal Government.

FEDERAL AND STATE MEDICAID REQUIREMENTS

Pursuant to CFR 42 § 435, the State agency must reduce its payment to an institution for services provided to a Medicaid-eligible individual by the amount that remains after adjusting the individual's total income for a personal needs allowance and other considerations that the regulation specifies. Section 4000 of the MaineCare Eligibility Manual identifies Social Security payments and pensions as part of an individual's income for calculating cost-of-care contributions.

Section 1903(d)(2) (C) and (D) of the Act further provides that a State has 60 days from the discovery of an overpayment for Medicaid services to recover or attempt to recover the overpayment from the provider before the State must adjust its Federal Medicaid payment.

UNADJUSTED NURSING HOME PAYMENTS

The State agency made overpayments to Ledgeview on behalf of an average of 14 Medicaid beneficiaries each month during calendar years 2004–2006 (Appendix A). Specifically, the State agency did not adjust its Medicaid payments to Ledgeview by the amount of beneficiaries' cost-of-care contributions from other resources, such as Social Security and pensions.

Example of Medicaid Overpayment for One Beneficiary

Mrs. E was a patient at Ledgeview for the month of August. Based on her other resources, the State agency calculated Mrs. E's cost-of-care contribution to be \$1,000 a month. The State agency determined that the nursing home was entitled to a monthly payment of \$5,000, consisting of \$4,000 from the State agency and the \$1,000 contribution from Mrs. E. However, the nursing home received a total of \$6,000 (\$5,000 from the State agency and \$1,000 from Mrs. E) because the State agency's computer system did not adjust the payment amount by Mrs. E's cost-of-care contribution. Thus, the nursing home received an overpayment of \$1,000 (\$6,000 minus \$5,000) for Mrs. E's care for the month of August.

As shown in Appendix A, the average number of beneficiaries with monthly overpayments increased from 4 in 2004 to 13 in 2006, after the State implemented its new computer system. The State agency made 483 overpayments for these beneficiaries during our audit period.

AMOUNT OWED FEDERAL GOVERNMENT

As a result of the overpayments, the State agency's Federal claim for Medicaid payments to Ledgeview for the period January 1, 2004, through December 31, 2006, was overstated by a total of \$250,444 (\$160,928 Federal share).

CAUSE OF UNADJUSTED OVERPAYMENTS

These errors occurred because MaineCare's new computer system was unable to reduce payments to nursing homes by beneficiaries' cost-of-care contributions as appropriate and refund any collected overpayments to the Federal government. Maine officials attributed these deficiencies to the numerous patches that the new computer system required over a 2-year period to correct its initial malfunctions.

The State agency has recently developed a manual system to use for processing the overpayments that our ongoing audits are identifying until its new computer system is fully functional.

RECOMMENDATIONS

We recommend that the State agency:

- collect overpayments totaling \$250,444 from Ledgeview and refund the \$160,928 Federal share of these collected overpayments to CMS on its next quarterly CMS-64 and
- continue its efforts to ensure that Medicaid overpayments to nursing homes are identified, collected, and refunded.

MAINE DEPARTMENT OF HEALTH AND HUMAN SERVICES COMMENTS

In its comments on our draft report, the State agency concurred with our finding and recommendations and stated that it would return the Federal share of \$160,928 on its next quarterly CMS-64. The State agency also said that it would continue to work proactively with us to reconcile any additional overpayments that are discovered during our review of nursing home providers in the State.

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

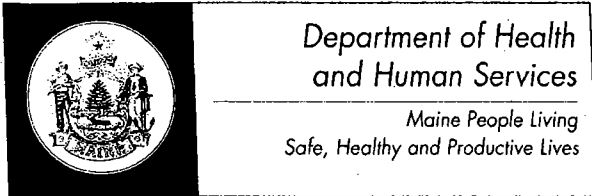
APPENDIXES

**MEDICAID OVERPAYMENTS TO LEDGEVIEW LIVING CENTER,
BY CALENDAR YEAR**

Cost Report Year	Average Number of Beneficiaries with Overpayments per Month	Number of Overpayments	Total Overpayments
2004	4	48	\$ 23,414
2005	24	288	123,558
2006	13	156	103,472
TOTAL	14	492¹	\$ 250,444

¹ Result of adding rounded numbers. The actual number of monthly overpayments was 483.

Department of Health and Human Services
Commissioner's Office
221 State Street
11 State House Station
Augusta, Maine 04333-0011
Tel: (207) 287-3707; Fax (207) 287-3005
TTY: 1-800-606-0215



Department of Health
and Human Services

Maine People Living
Safe, Healthy and Productive Lives

John E. Baldacci, Governor

Brenda M. Harvey, Commissioner

December 19, 2008

Mr. Michael J. Armstrong
Regional Inspector General for Audit Services
Office of Audit Services
Region I
John F. Kennedy Federal Building
Boston, MA 02203

RE: Draft report "Review of Medicaid Overpayments at Ledgeview Living Center for Calendar Years 2004 Through 2006" - A-01-08-00010

Dear Mr. Armstrong:

Thank you for the opportunity to review and comment on the above referenced OIG report. We have reviewed the draft report and offer the following comments on the recommendations identified on page 4 of the report.

OIG Recommendation 1: "the State agency collect overpayments totaling \$250,444 from Ledgeview and refund the \$160,928 Federal share of these overpayments to CMS on the next quarterly CMS-64"

DHHS Response: DHHS concurs that overpayments totaling \$250,444 were made to Ledgeview during calendar years 2004 through 2006 due to the MaineCare Claims Management System (MeCMS) not adjusting for cost of care correctly. DHHS will promptly return the Federal Share of \$160,928 on the next quarterly CMS-64.

OIG Recommendation 2: "the State agency continue its efforts to ensure that Medicaid overpayments to nursing homes are identified, collected, and refunded."

DHHS Response: The Office of MaineCare Services (OMS) has implemented several procedures to identify overpayments and assure timely refunds of the Federal share. The changes made include the following:

- A repair bundle to the MeCMS was installed on January 21, 2008 to increase the accuracy of processing claims with regards to Cost of Care, Co-payments and Modifiers.

- Adjustment functionality has been enabled in the MeCMS system as of March 24, 2008 which allows for the adjustment of claims that were processed incorrectly.
- OMS has dedicated additional resources to the claims adjustments unit to work with providers on processing paper claim adjustment requests received prior to the deployment of adjustments functionality.
- OMS has set up meetings with representatives of the provider community to establish a system for recovering overpayments made as a result of cost of care not processing correctly, as well as any duplicate payments that were made in error.

We recognize the issues of the current MMIS processing system and have been and will continue to work proactively with OIG staff to reconcile any overpayment discrepancies that are discovered during their review of nursing home providers in the State.

If you have any questions or would like to discuss our response please contact Stefanie Nadeau, Director of Third Party Liability, DHHS, Office of MaineCare Services at (207) 287-5875.

Sincerely,



Brenda M. Harvey, Commissioner
Maine Department of Health and Human Services

Cc: Russell J. Begin, Deputy Commissioner for Finance
Anthony Marple, Director, Office of MaineCare Services
Stefanie Nadeau, Director, TPL