



Office of Audit Services
Region I
John F. Kennedy Federal Building
Boston, MA 02203
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July 27, 2010

Report Number: A-01-10-00010

JudyAnn Bigby, MD
Secretary
Executive Office of Health and Human Services
One Ashburton Place
Boston, Massachusetts 02108

Dear Dr. Bigby:

Enclosed is the U.S. Department of Health & Human Services (HHS), Office of Inspector General (OIG), final report entitled *Review of Medicaid Payments at Cummings Healthcare LTC Group for State Fiscal Years 2007 through 2009*. We will forward a copy of this report to the HHS action official noted on the following page for review and any action deemed necessary.

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

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If you have any questions or comments about this report, please do not hesitate to call me, or contact Curtis Roy, Audit Manager, at (617) 565-9281 or through email at Curtis.Roy@oig.hhs.gov. Please refer to report number A-01-10-00010 in all correspondence.

Sincerely,

/Michael J. Armstrong/
Regional Inspector General
for Audit Services

Enclosure

Direct Reply to HHS Action Official:

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Department of Health & Human Services

**OFFICE OF
INSPECTOR GENERAL**

**REVIEW OF MEDICAID PAYMENTS AT
CUMMINGS HEALTHCARE LTC GROUP
FOR STATE FISCAL YEARS 2007
THROUGH 2009**



Daniel R. Levinson
Inspector General

July 2010
A-01-10-00010

Office of Inspector General

<http://oig.hhs.gov>

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Section 8L of the Inspector General Act, 5 U.S.C. App., requires that OIG post its publicly available reports on the OIG Web site.

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 Massachusetts Executive Office of Health and Human Services, Office of Medicaid (the State agency) is responsible for administering MassHealth, the Massachusetts 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 certain 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 financial eligibility process and enters this amount into its computer system. The beneficiary's contribution is remitted to the nursing home each month.

When the State agency reimburses the nursing home and 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).

Cummings Healthcare LTC Group (Cummings) is a family owned group of three Medicare- and Medicaid-certified nursing homes in New Bedford, Dighton and Melrose, Massachusetts. Cummings also has one Medicaid-certified nursing home in Fall River, Massachusetts.

OBJECTIVE

Our objective was to determine whether the State agency made Medicaid payments in accordance with Federal and State requirements to Cummings during State fiscal years 2007 through 2009 (July 1, 2006 through June 30, 2009).

SUMMARY OF FINDING

The State Agency generally made Medicaid payments in accordance with Federal and State requirements to Cummings during our audit period. However, the State agency did not always adjust its Medicaid per diem payments to Cummings 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 \$67,278 (\$35,405 Federal share). We attributed the incorrect Medicaid payments to clerical and billing errors.

RECOMMENDATIONS

We recommend that the State agency:

- collect overpayments totaling \$67,278 from Cummings and refund the \$35,405 Federal share of these 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.

CUMMINGS HEALTHCARE LTC GROUP COMMENTS

In written comments on our draft report, Cummings Healthcare LTC Group accepted the summary of credits/overpayments as outlined in the draft report. Cummings Healthcare LTC Group's comments are included in their entirety as Appendix B.

STATE AGENCY COMMENTS

In its comments on our draft report, the State agency was in agreement with both findings. The State agency's comments are included in their entirety as Appendix C.

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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) administer the program. Each State administers its Medicaid program in accordance with a CMS-approved State plan. The Massachusetts Executive Office of Health and Human Services, Office of Medicaid (the State agency) is responsible for administering MassHealth, the Massachusetts 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 certain 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 financial eligibility process and enters this amount into its computer system. The beneficiary's cost-of-care contribution is remitted 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).

Cummings Healthcare LTC Group (Cummings) is a family owned group of three Medicare- and Medicaid-certified nursing homes in New Bedford, Dighton and Melrose, Massachusetts. Cummings also has one Medicaid-certified nursing home in Fall River, Massachusetts.

OBJECTIVE, SCOPE, AND METHODOLOGY

Objective

Our objective was to determine whether the State agency made Medicaid payments in accordance with Federal and State requirements to Cummings during State fiscal years 2007 through 2009 (July 1, 2006 through June 30, 2009).

Scope

For the period July 1, 2006 through June 30, 2009, we reviewed Medicaid accounts that were at risk for having overpayments. We limited our review of internal controls to obtaining an understanding of Cummings's procedures for reviewing accounts and reporting overpayments to the Medicaid program.

We performed fieldwork in March and April 2010 at Cummings in New Bedford, Massachusetts; the State agency in Boston, Massachusetts; and the Centers for Medicare & Medicaid Services Regional Office in Boston, Massachusetts.

Methodology

To accomplish our objective, we:

- reviewed State and Federal regulations pertaining to overpayments,
- worked with Cummings officials to identify credit balances in Cumming'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 generally made Medicaid payments in accordance with Federal and State requirements to Cummings during our audit period. However, the State agency did not always adjust its Medicaid per diem payments to Cummings 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 \$67,278 (\$35,405 Federal share). We attributed the incorrect Medicaid payments to clerical and billing errors.

FEDERAL AND STATE MEDICAID REQUIREMENTS

Section 1903(d)(2)(C) and (D) of the Act 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.

Pursuant to 42 CFR § 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. MassHealth regulations at 450.316 notes that all resources available to a

member, including but not limited to health and casualty insurance, must be coordinated and applied to the cost of medical services provided by MassHealth.

UNADJUSTED NURSING HOME PAYMENTS

The State made 168 overpayments to the 4 Cummings nursing homes on behalf of an average of 5 Medicaid beneficiaries each month during July 1, 2006 through June 30, 2009 (Appendix A). Specifically, the State agency did not adjust its Medicaid payments to Cummings 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

Mr. A was a patient at Cummings nursing home during May 2008. Based on his other resources, the State Agency calculated Mr. A's cost-of-care contribution to be \$800 a month. The State agency determined that the nursing home was entitled to a monthly payment of \$5,000. Because of Mr. A's \$800 cost-of-care contribution, the State Agency was responsible for only \$4,200 of the \$5,000 nursing home costs. However, the nursing home received a total of \$5,800 (\$5,000 from the State agency and \$800 from Mr. A), because the State agency's computer system did not adjust the payment amount to take into consideration for Mr. A's cost-of-care contribution. Thus, the nursing home received an overpayment of \$800 (\$5,800 minus \$5,000) for Mr. A's care for the month of May.

AMOUNT OWED FEDERAL GOVERNMENT

As a result of the overpayments, the State Agency's Federal claim for Medicaid payments made to Cummings for the period July 1, 2006 through June 30, 2009, was overstated by a total of \$67,278 (\$35,405 Federal share).

CAUSE OF UNREPORTED OVERPAYMENTS

We attributed the 168 incorrectly reimbursed Medicaid payments to clerical and billing errors. Massachusetts officials informed us that they have recently implemented a new computer system which will reduce future clerical and billing errors.

RECOMMENDATIONS

We recommend that the State agency:

- collect overpayments totaling \$67,278 from Cummings and refund the \$35,405 Federal share of these 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.

CUMMINGS HEALTHCARE LTC GROUP COMMENTS

In written comments on our draft report, Cummings Healthcare LTC Group accepted the summary of credits/overpayments as outlined in the draft report. Cummings Healthcare LTC Group's comments are included in their entirety as Appendix B.

STATE AGENCY COMMENTS

In its comments on our draft report, the State agency was in agreement with both findings. The State agency's comments are included in their entirety as Appendix C.

APPENDIXES

**MEDICAID OVERPAYMENTS TO CUMMINGS HEALTHCARE
LTC GROUP, BY STATE FISCAL YEAR**

Fiscal Year	Average Number of Beneficiaries with Overpayments per Month	Number of Overpayments	Total Overpayments
2007	3	36	\$18,858
2008	5	60	16,350
2009	6	72	32,070
TOTAL	5	168	\$ 67,278

CUMMINGS HEALTHCARE
LTC GROUP COMMENTS

Cummings
Health Care Inc.

Tel: 508-990-1133 • Fax: 508-990-2379

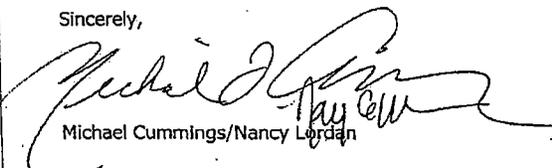
June 22, 2010

Office of Audit Services, Region 1
John F. Kennedy Federal Building
Boston, MA 02203

We have reviewed your findings in review of Medicaid Payments at Cummings Healthcare LTC Group for Fiscal Year 2007-2009. We accept the summary of credits/ overpayments as outlined in your report.

We wish to stress that the summary of findings concluded that Cummings Healthcare attempted to return overpayments to the State Agency on many occasions through various methods. Due to the State Agency's systems, the credits and or overpayments were not accepted or allowed to be returned to the State Agency (Mass Health) despite our repeated attempts. Cummings Healthcare respectfully requests no penalties or fines be placed on any of the Nursing Homes due to our aggressive attempts to return the overpayments.

Sincerely,



Michael Cummings/Nancy Lordin

Report# A-01-10-00010

TUELL NURSING HOME
92 Franklin Street
Melrose, MA 02176
781-665-0764

HIGHLAND MANOR NURSING HOME
761 Highland Avenue
Fall River, MA 02720
508-679-1411

CUMMINGS HEALTH CARE
LTC GROUP, INC.
404 County Street
New Bedford, MA 02740
508-990-1133

BEDFORD VILLAGE NURSING HOME
9 Pope Street
New Bedford, MA 02740
508-997-3359

DIGHTON NURSING CENTER
907 Center Street
North Dighton, MA 02764
508-669-6741

STATE AGENCY COMMENTS



DEVAL L. PATRICK
Governor

TIMOTHY P. MURRAY
Lieutenant Governor

The Commonwealth of Massachusetts
Executive Office of Health and Human Services
Office of Medicaid
One Ashburton Place
Boston, MA 02108

MassHealth

JUDYANN BIGBY, M.D.
Secretary

TERENCE G. DOUGHERTY
Medicaid Director

July 15, 2010

Michael J. Armstrong
Regional Inspector General, Audit Services
HHS/OIG/OAS
Region I
JFK Federal Building
Boston, MA 02203

RE: Audit Report No: A-01-10-00010

Dear Mr. Armstrong,

Thank you for the opportunity to review and comment on Draft Audit Report No.: A-01-10-00010 Review of Medicaid Payments at Cummings Healthcare LTC Group for State Fiscal Years 2007 - 2009

Our responses to the report's specific recommendations are as follows:

Recommendation:

1) Collect overpayments totaling \$ 67,278 from Cummings and refund \$ 35,405 Federal share of these payments to CMS on the next quarterly CMS-64.

Response: We are in agreement with this finding and will follow the procedures described in state Medicaid regulations at 130 CMR 450.237 to collect the overpayments from the provider. Under 130 CMR 450.237, the provider has a due process right to contest the overpayment, including the right to request an adjudicatory hearing and judicial review. We will need the OIGs workpapers identifying the specific claims in order to undertake collection of the overpayments and to defend any challenge to collection by the provider. If the provider does not contest the overpayment collection or its contest to the overpayment does not succeed, we will work with EOHHS' Federal Revenue Unit to return the Federal share on the appropriate CMS-64.

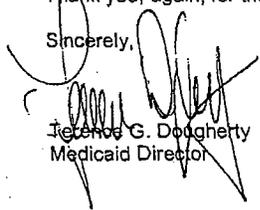
Recommendation:

2) Continue agency efforts to ensure that Medicaid overpayments to nursing homes are identified, collected and refunded.

Response: We are in agreement with this finding and will ensure that periodic reviews and audits are conducted to identify, collect and refund overpayments.

Thank you, again, for the opportunity to respond to the draft report.

Sincerely,


Terence G. Dougherty
Medicaid Director