

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**MASSACHUSETTS DID NOT
ALWAYS MAKE CORRECT
MEDICAID CLAIM ADJUSTMENTS**

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Inspector General**

**September 2014
A-01-13-00003**

Office of Inspector General

<http://oig.hhs.gov>

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OFFICE OF AUDIT SERVICES FINDINGS AND OPINIONS

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EXECUTIVE SUMMARY

Massachusetts used incorrect Federal medical assistance percentages because it processed adjusted claims as new expenditures for both public and private providers, resulting in an overpayment of \$106 million (Federal share) from October 2008 through December 2010.

WHY WE DID THIS REVIEW

A previous Office of Inspector General review in one State found improperly adjusted Medicaid claims reported on the Quarterly Medicaid Statement of Expenditures for the Medical Assistance Program (Form CMS-64) because that State used incorrect Federal medical assistance percentages (FMAPs) when it processed the whole amount of adjusted claims as new expenditures. We, therefore, conducted a similar review of the claims submitted by the Massachusetts Executive Office of Health and Human Services, Office of Medicaid (State agency).

The objective of this review was to determine whether the State agency used the correct FMAPs when it processed claim adjustments reported on the Form CMS-64.

BACKGROUND

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

The Form CMS-64 is the accounting statement that the State agency must submit each quarter under Title XIX of the Act (42 CFR § 430.30(c)). The Form CMS-64 shows the disposition of Medicaid funds for the quarter being reported and the previous fiscal years, the recoupment made or refunds received, and income earned on Medicaid funds. The State agency also uses it to make adjustments for any identified overpayment or underpayment of the FMAP. The State agency makes adjustments on specific lines of the Form CMS-64 for prior-period increases and decreases. The State agency makes adjustments for a variety of reasons, including correcting inaccurate provider billings and retroactive changes in provider payment rates.

The State agency had 21,183,505 line items associated with claims that were adjusted during the audit period October 2008 through December 2010. We limited our review to 11,071,712 line items. These line items represented 5,535,856 unique Medicaid claims totaling \$3.8 billion (\$2.2 billion Federal share) that were adjusted during the audit period.

WHAT WE FOUND

The State agency did not always use the correct FMAPs when processing claim adjustments reported on the Form CMS-64. Of the 5,535,856 claims we reviewed, the State agency processed 3,142,584 claims using the correct FMAPs. However, a portion of the Federal share for the remaining 2,393,272 claims was paid using the incorrect FMAPs. As a result, the State agency received \$105,550,817 (Federal share) more than it was entitled to. The State agency used incorrect FMAPs because it processed adjusted claims for both public and private providers as current expenditures.

WHAT WE RECOMMEND

We recommend that the State agency:

- refund \$105,550,817 to the Federal Government and
- ensure that it processes future adjustments in accordance with Federal requirements.

STATE AGENCY COMMENTS AND OUR RESPONSE

In written comments on our draft report, the State agency said that it would concur with our finding that it needs to refund approximately \$106 million provided that CMS agrees to approve the State agency's recent request for additional Federal reimbursement. The State agency said that by implementing "OIG's interpretation of the claiming rules" to adjustments made after our audit period (when the American Recovery and Reinvestment Act of 2009 FMAP rate increases no longer applied), the State agency found that it was due approximately \$108 million in Federal reimbursement from CMS. The State agency said that upon receiving confirmation from CMS, Massachusetts will realign its payment systems going forward consistent with OIG's recommendation.

Our recommendations are based on an interpretation of the claiming rules that is supported by Federal requirements. The State agency's assertion that it implemented OIG's interpretation of the claiming rules when it calculated the \$108 million is in error. Furthermore, the State agency's offer to realign its payment systems in the future does not address the approximately \$106 million that it received inappropriately because of its use of improper FMAPs in its calculations. We continue to recommend that the State agency refund that amount.

We plan to work with CMS regarding the State agency's calculation of the \$108 million.

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INTRODUCTION

WHY WE DID THIS REVIEW

A previous Office of Inspector General review¹ found improperly adjusted Medicaid claims reported on the Quarterly Medicaid Statement of Expenditures for the Medical Assistance Program (Form CMS-64) because the State used incorrect Federal medical assistance percentages (FMAPs) when it processed the whole amount of the adjusted claims as new expenditures. We, therefore, conducted a similar review of the claims submitted by the Massachusetts Executive Office of Health and Human Services, Office of Medicaid (State agency).

OBJECTIVE

Our objective was to determine whether the State agency used the correct FMAPs when it processed claim adjustments reported on the Form CMS-64.

BACKGROUND

Medicaid Program

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

Quarterly Medicaid Statement of Expenditures for the Medical Assistance Program

The Form CMS-64 is the accounting statement that a State agency must submit each quarter under Title XIX of the Act (42 CFR § 430.30(c)). The Form CMS-64 shows the disposition of Medicaid funds for the quarter being reported and the previous fiscal years, any recoupment made or refunds received, and income earned on Medicaid funds.

The State agency uses the Form CMS-64 to make adjustments for any identified overpayment or underpayment of the FMAP. The State agency makes adjustments for a variety of reasons, including correcting inaccurate provider billings and retroactive changes in provider payment rates.

¹ *Maine Did Not Always Make Correct Medicaid Claim Adjustments* (A-01-12-00001), July 18, 2012.

Federal Medical Assistance Percentages

The Federal Government pays its share of a State's Medicaid payments on the basis of the FMAP, which varies depending on the State's relative per capita income. For January 1988 through December 2010 (the period in which the claims we audited were originally paid), the FMAP for Massachusetts ranged from 50 percent to 61.59 percent (Appendix A).

HOW WE CONDUCTED THIS REVIEW

We reviewed 5,535,856 final adjusted claims, totaling \$3.8 billion (\$2.2 billion Federal share), that were originally paid from January 1988 through December 2010 and that were subsequently adjusted from October 2008 through December 2010, resulting in a payment difference.

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 findings and conclusions based on our audit objectives.

Appendix B contains the details of our audit scope and methodology.

FINDING

The State agency did not always use the correct FMAPs when processing claim adjustments reported on the Form CMS-64. Of the 5,535,856 claims we reviewed, the State agency processed 3,142,584 claims using the correct FMAPs. However, a portion of the Federal share for the remaining 2,393,272 claims was paid using the incorrect FMAPs. As a result, the State agency received \$105,550,817 (Federal share) more than it was entitled to. The State agency used incorrect FMAPs because it processed adjusted claims as current expenditures for both public and private providers.²

FEDERAL MEDICAID REQUIREMENTS

The Federal Government must reimburse the State at the FMAP rate in effect at the time the State made the expenditure (the Act § 1903(a)(1)).

The *State Medicaid Manual*, section 2500(D)(2), provides the following instruction to States: "When reporting expenditures for Federal reimbursement, apply the FMAP rate in effect at the time the expenditure was recorded in your accounting system. An expenditure occurs when a cash payment is made to a provider To establish the FMAP rate applicable to a given expenditure, determine when the expenditure was made." Section 2500.1 further instructs States to claim increasing adjustments involving public providers as prior-period expenditures and claim "cost settlements" and "other increasing adjustments" involving private providers as current expenditures in the quarter in which the adjustments are made. The FMAP in effect

² Public providers are those that are owned or operated by a State, county, city, or other local government agency or instrumentality. Private providers are providers that fall outside the direct control of government.

when the adjustment is paid should be applied when the adjustment amount is submitted. The FMAP in effect for the original payment does not change.

INCORRECT FEDERAL MEDICAL ASSISTANCE PERCENTAGES USED WHEN MAKING CLAIM ADJUSTMENTS

The State agency did not always use the correct FMAPs when processing claim adjustments reported on the Form CMS-64. A portion of the Federal share for 2,393,272 claims was paid using the incorrect FMAPs. As a result, the State agency received \$105,550,817 (Federal share) more than it was entitled to.

In the example below, the State agency made the adjustment by voiding a claim that used the FMAP in effect at the time it originally processed the claim. The State agency then processed an entirely new claim, including the adjustment amount, as a current expenditure that replaced the voided claim. The State agency reported the entire amount of the new claim on the Form CMS-64 at the current FMAP, rather than treating only the adjustment amount as a current expenditure; therefore, the State agency overstated the Federal share.

An Example of an Incorrect Claim Adjustment				
Adjustment Made by the State Agency				
<u>Transaction Type</u>	<u>Payment Date</u>	<u>Paid</u>	<u>FMAP</u>	<u>Federal Share</u>
Original claim	9/2/2005	\$1,716	50%	\$858.00
Adjusted claim	8/7/2009	(\$1,716)	50%	(\$858.00)
Current claim	8/7/2009	\$2,400	61.59%	\$1,478.16
Office of Inspector General Recalculation of the Adjustment				
<u>Transaction Type</u>	<u>Payment Date</u>	<u>Paid</u>	<u>FMAP</u>	<u>Federal Share</u>
Original claim	9/2/2005	\$1,716	50%	\$858.00
Adjusted claim	8/7/2009	\$684	61.59%	\$421.28
				\$1,279.28
Amount of the Incorrect Claim Adjustment: \$1,478.16 – \$1,279.28 = \$198.88				

The State agency used incorrect FMAPs because it processed adjusted claims for both public and private providers as current expenditures.

RECOMMENDATIONS

We recommend that the State agency:

- refund \$105,550,817 to the Federal Government and
- ensure that it processes future adjustments in accordance with Federal requirements.

STATE AGENCY COMMENTS

In written comments on our draft report, the State agency said that it would concur with our finding that it needs to refund approximately \$106 million provided that CMS agrees to approve the State agency's recent request for Federal reimbursement totaling approximately \$108 million. The State agency explained that, during the audit period, "FMAP rates were increasing" due to provisions of the American Recovery and Reinvestment Act of 2009 (ARRA). As a result, "rate adjustments were claimed at higher FMAP rates." The State agency said that by implementing "OIG's interpretation of the claiming rules" to adjustments made after our audit period (when the ARRA increases no longer applied), the State agency found that it was due approximately \$108 million in Federal reimbursement from CMS.

According to the State agency, CMS sent the State agency deferral notices in response to the State agency's request for reimbursement of the \$108 million. In its comments on our draft report, the State agency said: "In our response to CMS' deferral, the Commonwealth requested that CMS verify that they agree with the OIG's findings and that the Commonwealth should make these changes going forward to bring its systems in line with the OIG's interpretation. Upon receiving confirmation from CMS, Massachusetts will realign its payment systems going forward consistent with OIG's recommendation."

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

OFFICE OF INSPECTOR GENERAL RESPONSE

Our recommendations are based on an interpretation of the claiming rules that is supported by Federal requirements. The State agency's assertion that it implemented OIG's interpretation of the claiming rules when it calculated the \$108 million is in error. While our review did not include the State agency's claims that constitute the \$108 million,³ we conducted a preliminary review of the claims at the request of CMS and found the following:

- The State agency used only the two most recent claim adjustments when calculating the Federal share for private provider claims rather than including all claim adjustments. This resulted in calculation errors for any claim adjusted more than one time.
- The State agency's claim data included numerous claim adjustments that were not made within the 2-year timely filing period and were not all caused by rate adjustments. Many of these adjustments might not have been allowable.⁴

Furthermore, the State agency's offer to realign its payment systems in the future does not address the approximately \$106 million that the State agency received inappropriately because of

³ The State agency did not provide these claims to CMS and OIG until May 27, 2014, after our review concluded.

⁴ With limited exceptions, States must file claims for expenditures within 2 years, which includes filing claim adjustments (45 CFR §§ 95.7 and 95.19). The *State Medicaid Manual*, section 2560.4.A.2, further restricts the exception for adjustments to prior-year costs for public providers to instances in which a State uses an interim rate and final cost settlement process.

its use of improper FMAPs in its calculations. We continue to recommend that the State agency refund that amount.

We plan to work with CMS regarding the State agency's calculation of the \$108 million.

APPENDIX A: FEDERAL MEDICAL ASSISTANCE PERCENTAGES FOR MASSACHUSETTS, 1988 THROUGH 2010

Time Period	FMAP Rate
January 1988 through March 2003	50%
April 2003 through March 2004	52.95%
April 2004 through September 2008	50%
October 2008 through March 2009	58.78%
April 2009 through June 2009	60.19%
July 2009 through December 2010	61.59%

APPENDIX B: AUDIT SCOPE AND METHODOLOGY

SCOPE

For the period from October 2008 through December 2010, we reviewed Medicaid accounts that were at risk for having overpayments. We limited our review of internal controls to obtaining an understanding of the State agency's procedures for performing claim adjustments and reporting the adjustments on the Form CMS-64.

We performed fieldwork from December 2012 through April 2014 at the State agency in Boston, Massachusetts.

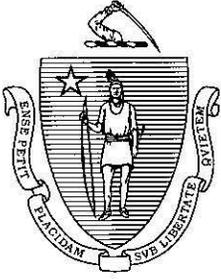
METHODOLOGY

To accomplish our objective, we:

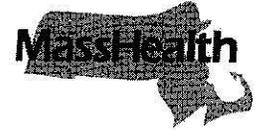
- reviewed applicable Federal laws, regulations, and guidance;
- interviewed officials from the State agency;
- identified from the 21,183,505 line items, 11,071,712 that were originally paid from January 1988 through December 2010 and that were subsequently adjusted from October 2008 through December 2010, resulting in a payment difference;
- reviewed the 11,071,712 line items that represented 5,535,856 unique Medicaid claims totaling \$3,795,999,707 (\$2,175,623,272 Federal share);
- reviewed a judgmental sample of provider payments to confirm that the adjustments and payments were consistent with those of the Medicaid management information system data;
- performed a reconciliation of the adjustments contained in the Medicaid management information system data to the adjustments reported on the Form CMS-64;
- calculated the correct Federal share for 5,535,856 unique Medicaid claims with their corresponding adjustments; and
- discussed the results of our review with State agency officials.

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 findings and conclusions based on our audit objectives.

APPENDIX C: STATE AGENCY COMMENTS



The Commonwealth of Massachusetts
Executive Office of Health and Human Services
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Medicaid Director

July 3, 2014

Mr. David Lamir
Regional Inspector General for Audit Services
Department of Health and Human Services
Office of Inspector General
Office of Audit Services, Region I
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Boston, MA 02203

Dear Mr. Lamir:

The Commonwealth of Massachusetts appreciates the opportunity to respond to the Office of Inspector General Audit Report A-01-13-00003 entitled "*Massachusetts Did Not Always Make Correct Medicaid Claim Adjustments*". The OIG draft findings show that Massachusetts over claimed federal revenue by \$105,550,817 for FMAP adjustments due to timing issues associated with the ARRA claiming.

It is important to note that the Commonwealth has been consistently reporting and claiming the adjustments on the CMS-64 since the New MMIS system was implemented in June of 2009. The new system required the use of void and replace for most rate adjustments. During the audit period, FMAP rates were increasing due to ARRA and, therefore, rate adjustments were claimed at higher FMAP rates. However, after the audit period, FMAP rates decreased when ARRA ended and, therefore, rate adjustments were claimed at lower FMAP rates. By implementing OIG's interpretation of the claiming rules after the audit period (January 2011 to September of 2013), Massachusetts has requested increased Federal reimbursement totaling \$108,177,086 from CMS. Although our claiming request has been deferred¹, this total claim will more than offset the OIG audit finding for FMAP adjustments.

The Commonwealth would concur with OIG's finding provided that CMS agrees with this interpretation and agrees to release the deferrals of approximately \$108M that is

¹ January 23, 2014 received deferral notice from CMS for \$35,966,804; April 8, 2014 received additional deferral notice from CMS for \$72,210,282.

outstanding. In our response to CMS' deferral, the Commonwealth requested that CMS verify that they agree with the OIG's findings and that the Commonwealth should make these changes going forward to bring its systems in line with the OIG's interpretation. Upon receiving confirmation from CMS, Massachusetts will realign its payment systems going forward consistent with OIG's recommendation.

Sincerely,


Kristin L. Thorn
Medicaid Director

Deputy Medicaid Director
for Kristin