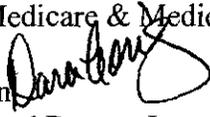




AUG - 4 2004

TO: Mark B. McClellan, M.D., Ph.D.
Administrator
Centers for Medicare & Medicaid Services

FROM: Dara Corrigan 
Acting Principal Deputy Inspector General

SUBJECT: Review of Contractual Service Expenditures Claimed by New Jersey to the Disproportionate Share Hospital Program for the Period April 1, 1997 Through June 30, 2001 (A-02-03-01015)

Attached is an advance copy of our final report on New Jersey's contractual service expenditures claimed to the Medicaid disproportionate share hospital (DSH) program. We will issue this report to the New Jersey Medicaid agency within 5 business days. This is the fourth in a series of reports on Medicaid DSH claims that were prepared by a consultant under a contingency fee contract and submitted by New Jersey for Federal reimbursement. The purpose of the contract was to increase Federal reimbursement by identifying and submitting to the Federal Government unclaimed State expenses. We became aware of this contract and related problems during a previous audit. The Senate Finance Committee, which is currently investigating arrangements between States and private consulting firms for maximizing Medicaid revenue, has requested that we provide the results of this review.

The objective of our review was to determine whether contractual service costs claimed by New Jersey as acute care DSH expenditures were allowable for Federal reimbursement.

The DSH program originated with the Omnibus Budget Reconciliation Act of 1981, which authorized State agencies to make additional payments to hospitals that serve a disproportionately large number of low-income patients with special needs. Through the Centers for Medicare & Medicaid Services (CMS), the Federal Government shares in these payments. The New Jersey State plan approved by CMS allowed DSH payments to eligible acute care hospitals for health services provided to Medicaid beneficiaries and uninsured individuals.

From April 1, 1997 through June 30, 2001, New Jersey was reimbursed \$110.4 million (\$55.2 million Federal share) for contractual service costs under the Medicaid DSH program. We found that \$106.7 million (\$53.4 million Federal share) of these costs were allowable. However, contrary to provisions of the Social Security Act and the New Jersey State plan, the remaining \$3.7 million (\$1.8 million Federal share) was improperly claimed for Federal DSH reimbursement. We also determined that New Jersey relied solely on the contractor to prepare and document the additional acute care DSH claims and failed to ensure the accuracy of the claims before submitting them for Federal reimbursement.

Page 2 – Mark B. McClellan, M.D., Ph.D.

We recommend that New Jersey (1) refund \$1,841,293 to the Federal Government, (2) adhere to Federal law and State plan requirements when submitting future DSH claims for Federal reimbursement, and (3) review all work performed by consultants to ensure the veracity of future Medicaid claims to the Federal Government.

In their response to our draft report, New Jersey officials concurred with the findings and recommendations.

If you have any questions or comments about this report, please do not hesitate to call me, or your staff may contact George M. Reeb, Assistant Inspector General for the Centers for Medicare & Medicaid Audits, at (410) 786-7104 or Timothy J. Horgan, Regional Inspector General for Audit Services, Region II, at (212) 264-4620. Please refer to report number A-02-03-01015 in all correspondence.

Attachment



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office Of Inspector General
Office Of Audit Services

AUG - 9 2004

Region II
Jacob K. Javits Federal Building
26 Federal Plaza
New York, NY 10278

Report Number: A-02-03-01015

Mr. James M. Davy
Acting Commissioner
State of New Jersey
Department of Human Services
Trenton, New Jersey 08625-0700

Dear Mr. Davy:

Enclosed are two copies of the Department of Health and Human Services (HHS), Office of Inspector General (OIG) final report entitled "Review of Contractual Service Expenditures Claimed by New Jersey to the Disproportionate Share Hospital Program for the Period April 1, 1997 Through June 30, 2001." A copy of this report will be forwarded to the HHS action official noted below for review and any action deemed necessary.

Final determination as to actions taken on all matters reported will be made by the HHS action official. We request that you respond to the 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 that the Department chooses to exercise (see 45 CFR part 5).

Please refer to report number A-02-03-01015 in all correspondence.

Sincerely yours,


Timothy J. Horgan
Regional Inspector General
for Audit Services

Enclosures

Page 2 – Mr. James M. Davy

Direct Reply to HHS Action Official:

Ms. Sue Kelly
Associate Regional Administrator
Division of Medicaid and Children's Health
Centers for Medicare & Medicaid Services, Region II
Department of Health and Human Services
26 Federal Plaza, Room 3811
New York, New York 10278

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**REVIEW OF CONTRACTUAL SERVICE
EXPENDITURES CLAIMED BY NEW
JERSEY TO THE DISPROPORTIONATE
SHARE HOSPITAL PROGRAM FOR
THE PERIOD APRIL 1, 1997 THROUGH
JUNE 30, 2001**



**AUGUST 2004
A-02-03-01015**

Office of Inspector General

<http://oig.hhs.gov>

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OAS FINDINGS AND OPINIONS

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



EXECUTIVE SUMMARY

BACKGROUND

The Medicaid disproportionate share hospital (DSH) program originated with the Omnibus Budget Reconciliation Act of 1981, which authorized State agencies to make additional payments to hospitals that serve a disproportionately large number of low-income patients with special needs. Section 1923(g) of the Social Security Act (the Act) stipulated that annual DSH payments to each hospital not exceed the respective hospital-specific limit calculated using individual State plan guidelines. The Federal Government and the States share in these payments. At the Federal level, the Centers for Medicare & Medicaid Services (CMS) is responsible for administering the DSH program.

In 1996, New Jersey awarded a contingency fee contract to Deloitte Consulting (Deloitte). The purpose of the contract was to generate increased Federal reimbursement by identifying and submitting to the Federal Government unclaimed State expenses. According to the contract terms, Deloitte was to receive a payment ranging from 6 to 7.5 percent of the Federal funds recovered. As a result of Deloitte's efforts, the State claimed \$233 million (\$116.5 million Federal share) in DSH funds for payments to acute care hospitals from April 1, 1997 through June 30, 2001. Of the \$233 million, \$110.4 million (\$55.2 million Federal share) applied to costs incurred by State agencies as a result of contracts with hospitals and other health care providers.

OBJECTIVE

The objective of our review was to determine whether contractual service costs claimed by New Jersey as acute care DSH expenditures were allowable for Federal reimbursement.

SUMMARY OF FINDINGS

We found that \$106.7 million of the \$110.4 million in contractual service costs claimed by New Jersey as DSH expenditures were allowable for Federal funding. However, contrary to provisions of the Act and the New Jersey State plan, the remaining \$3.7 million (\$1.8 million Federal share) was improperly claimed for Federal DSH reimbursement. Deloitte erroneously included claims for 12 health care providers that were not DSH-approved acute care facilities and whose expenses were therefore not eligible for DSH reimbursement. New Jersey officials advised us that they had relied on Deloitte to prepare these claims and, contrary to Federal requirements, had not ensured their veracity.

RECOMMENDATIONS

We recommend that New Jersey:

- refund \$1,841,293 to the Federal Government

- adhere to Federal law and State plan requirements when submitting future DSH claims for Federal reimbursement
- review all work performed by consultants to ensure the veracity of future Medicaid claims to the Federal Government

STATE COMMENTS

New Jersey officials agreed with our findings and recommendations. The full text of New Jersey's comments is included as an appendix to this report.

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INTRODUCTION

BACKGROUND

Disproportionate Share Hospital Program

The Medicaid DSH program originated with the Omnibus Budget Reconciliation Act of 1981, which authorized State agencies to make additional payments to hospitals that serve a disproportionately large number of low-income patients with special needs. Section 1923(g) of the Act stipulated that annual DSH payments to each hospital not exceed the respective hospital-specific limit calculated using individual State plan guidelines. The Federal Government and the States share in these payments. At the Federal level, CMS is responsible for administering the DSH program.

Within a broad legal framework, each State designs and administers its own Medicaid program. Each State prepares a State plan that defines how it will operate its Medicaid program, including its DSH program, and is required to submit the plan for CMS approval. In New Jersey, the Department of Human Services, Division of Medical Assistance and Health Services serves as the Medicaid State agency and administers the DSH program.

New Jersey's Use of Consultant

On December 9, 1996, the New Jersey Department of the Treasury, Office of Management and Budget awarded a contingency fee contract to Deloitte. The purpose of the contract, known as the "Federal Fund Revenue Enhancers for All Federal Programs," was to generate increased Federal reimbursement by identifying and submitting to the Federal Government unclaimed State expenses. According to the terms of the contract, Deloitte was to receive a payment ranging from 6 to 7.5 percent of the Federal funds recovered.

Recognizing the DSH program's potential for Federal fund enhancement, New Jersey and Deloitte targeted payments for services and other health-related activities made on behalf of Medicaid recipients and uninsured individuals by any State agency that had not been submitted for Federal reimbursement. As a result of Deloitte's efforts, the New Jersey Division of Medical Assistance and Health Services submitted claims for, and was reimbursed, \$586.7 million (\$293.4 million Federal share) in DSH funds. Of this amount, \$233 million (\$116.5 million Federal share) was claimed for payments to acute care hospitals. In reviewing the documentation for these claims, we identified \$110.4 million (\$55.2 million Federal share) of acute care hospital claims for health care costs incurred by State agencies as a result of contracts with hospitals and other health care providers.¹

¹We separately reviewed the remaining acute care hospital claims: \$54.9 million in duplicate claims (A-02-01-01037, issued February 25, 2003), \$45.5 million in Federal nonparticipating claims (A-02-02-01040, issued July 9, 2003), and \$22.2 million in prison inmate claims (A-02-02-01028, issued January 13, 2004).

OBJECTIVE, SCOPE, AND METHODOLOGY

Objective

The objective of our review was to determine whether contractual service costs claimed by New Jersey as acute care DSH expenditures were allowable for Federal reimbursement.

Scope

Our audit period covered April 1, 1997 through June 30, 2001. We conducted our fieldwork at the State agency offices in Mercerville, NJ.

We did not perform an indepth review of the State's internal control structure; however, we did make a limited assessment of the fiscal controls related to DSH claims submitted for Federal reimbursement.

Methodology

To accomplish our objective, we:

- reviewed the Omnibus Budget Reconciliation Act of 1981 and 1993, sections 1902 and 1923 of the Act, the New Jersey State Plan, and other applicable criteria
- reviewed the New Jersey Office of Management and Budget request for proposal for the "Federal Fund Revenue Enhancers for All Federal Programs" and Deloitte's response to the request for proposal
- reviewed the "Federal Fund Revenue Enhancers for All Federal Programs" contract between Deloitte and the New Jersey Office of Management and Budget
- obtained from New Jersey the universe of acute care hospital claims totaling \$233 million (\$116.5 million Federal share) prepared by Deloitte and reconciled the claims to the Quarterly Medicaid Statement of Expenditures for the Medical Assistance Program (Form CMS-64) submitted to the Federal Government for reimbursement under the DSH program
- determined that \$110.4 million (\$55.2 million Federal share) of claims for 125 health care providers included in the universe applied to contracts between health care providers and State agencies
- verified that funds were transferred from New Jersey to the health care providers as a result of the contract services and that these funds were not previously claimed for Federal reimbursement

- obtained from New Jersey a current list of hospitals classified as DSH eligible; created, from the claim-supporting information, a list of all providers with DSH claims; and compared the two lists
- discussed the audit results with New Jersey officials

We performed our review in accordance with generally accepted government auditing standards.

FINDINGS AND RECOMMENDATIONS

We found that \$106.7 million of the \$110.4 million in contractual service costs claimed by New Jersey as DSH expenditures from April 1, 1997 through June 30, 2001 was allowable for Federal funding. However, contrary to provisions of the Act and the New Jersey State plan, the remaining \$3.7 million (\$1.8 million Federal share) was improperly claimed for Federal DSH reimbursement. Deloitte erroneously included claims for 12 health care providers that were not DSH-approved acute care facilities and whose expenses were therefore not eligible for DSH reimbursement. New Jersey officials advised us that they had relied on Deloitte to prepare these claims and had not ensured their veracity.

SOCIAL SECURITY ACT

Section 1902(a)(13)(A)(iv) of the Act requires a Medicaid State plan for medical assistance to provide a public process for determining payment rates for hospitals that serve a disproportionate number of low-income patients with special needs.

Section 1923 of the Act requires that in order to meet the requirements of section 1902, the State should submit to the Secretary an amendment to the State plan that specifically defines and identifies hospitals eligible to receive DSH payments.

NEW JERSEY STATE PLAN

To comply with the requirements of sections 1902 and 1923 of the Act, the State prepared Attachment 4.19A, section 8.1 to the New Jersey State plan. This attachment sets forth the requirement for designation as a DSH. It specifies that the facility must be an acute care hospital and be designated as a DSH-approved acute care hospital by either the Commissioner of Human Services or the Commissioner of the Department of Health.

ALLOWABILITY OF CONTRACTUAL SERVICE COSTS

For the period April 1, 1997 through June 30, 2001, Deloitte included in its DSH claims \$110,396,955 of expenditures incurred by State agencies as a result of contracts entered into with 125 health care providers. These claims represent State payments to providers for health care-related services. Examples of these contracts include:

- The State Department of Health, Management and Administration contracted with Robert Wood Johnson University Hospital for a hepatitis vaccine.
- The State Department of Law and Public Safety contracted with Atlantic City Medical Center for violent crimes services.
- The State Department of Health, Division of Senior Services contracted with Holy Name Hospital for costs associated with adult day care.
- The State Department of Health, Division of Epidemiology contracted with Newark Beth Israel for breast cancer research.

Expenditures incurred by acute care hospitals and paid by State agencies are allowable under the DSH program as long as the expenditures were not previously claimed for Federal reimbursement and do not exceed individual hospital DSH limits. Of the \$110,396,955 total claim, \$106,714,370 was properly claimed for 113 DSH-approved acute care hospitals. The remaining \$3,682,585 (\$1,841,293 Federal share) of expenditures for 12 health care providers included by Deloitte in the State's DSH claim was unallowable because the providers did not meet the criteria for designation as DSH-eligible acute care hospitals prescribed by the State plan. According to New Jersey officials, the claims for contractual services should have included only expenditures incurred for contracts with DSH-approved facilities.

Further, the State plan specifies that in order to be DSH-approved, the acute care hospital must be designated as such by the Commissioner of Human Services or the Commissioner of the Department of Health. The 12 health care providers were not designated as New Jersey acute care DSH hospitals and were therefore not eligible for DSH reimbursement. The providers included:

- one Federal health center with a total claim of \$3,327,438
- seven private physician practices with total claims of \$261,758
- one psychiatric facility with a total claim of \$46,870
- two out-of-State hospitals with total claims of \$45,517
- one outpatient center with a total claim of \$1,002

We discussed the results of our review with State officials, who agreed that costs for these 12 health care providers were ineligible for inclusion in the DSH claim.

NO STATE REVIEW OF CONTRACTUAL SERVICE CLAIMS

State officials advised us that they had relied solely on Deloitte to prepare and document the additional acute care DSH claims, which included contractual service costs, and had not reviewed the veracity of the claims before submitting them for Federal reimbursement.

Federal requirements at 45 CFR § 95.505 stipulate that Medicaid State plans are comprehensive, written commitments by the States to supervise and administer the Medicaid program. In addition, the DSH claims submitted by New Jersey for Federal reimbursement required State officials' signatures certifying that the expenditures were allowable in accordance with Federal regulations and the approved State plan.

RECOMMENDATIONS

We recommend that New Jersey:

- refund \$1,841,293 to the Federal Government
- adhere to Federal law and State plan requirements when submitting future DSH claims for Federal reimbursement
- review all work performed by consultants to ensure the veracity of future Medicaid claims to the Federal Government

STATE COMMENTS

The full text of New Jersey's comments is included as an appendix to this report. In summary, New Jersey officials agreed with the findings and recommendations, including the \$1,841,293 adjustment. The officials stated that it was their policy and practice to submit accurate claims to the Federal Government and added that, to verify the accuracy of future claims, they had assigned additional resources, were revising review procedures, and would take other steps.

APPENDIX



State of New Jersey
DEPARTMENT OF HUMAN SERVICES
PO Box 700
TRENTON NJ 08625-0700

JAMES E. MCGREEVEY
Governor

April 8, 2004

JAMES M. DAVY
Commissioner

Timothy J. Horgan
Regional Inspector General
for Audit Services
Office of the Inspector General
Office of Audit Services
Jacob K. Javits Federal Building
26 Federal Plaza
New York, New York 10278

Report Number A-02-03-01015

Dear Mr. Horgan:

This is in response to your correspondence of March 11, 2004 concerning the draft audit report entitled "Review of Contractual Service Expenditures Claimed by New Jersey To The Disproportionate Share Hospital Program For The Period April 1, 1997 Through June 30, 2001". Your letter provides an opportunity to comment on the draft audit report.

The draft report contains two findings and three recommendations. The report makes the following findings: 1) New Jersey improperly claimed \$1,841,293 federal financial participation (FFP) for Medicaid disproportionate share hospital (DSH) adjustments and 2) the Division of Medical Assistance and Health Services failed to assure the veracity of these claims prior to submitting them for federal reimbursement. The draft report asserts these DSH adjustments were payments to health care providers that were not designated as New Jersey acute care DSH hospitals and are, therefore, not eligible for DSH and did not adhere to the New Jersey Medicaid State Plan.

A review of the available documentation indicates that the findings and the audit report are correct. The finding that New Jersey improperly claimed FFP is accurate and the payments were to health care providers that were not designated as New Jersey acute care DSH hospitals.

Next, as to the finding that the Division of Medical Assistance and Health Services failed to insure the veracity of these claims, DMAHS is revising its review procedures and will be taking additional steps to verify the accuracy of future claims.



Timothy J. Horgan
April 8, 2004
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APPENDIX
Page 2 of 2

Next, as to the finding that the Division of Medical Assistance and Health Services failed to insure the veracity of these claims, DMAHS is revising its review procedures and will be taking additional steps to verify the accuracy of future claims.

In summary, the recommendations contained in the report and our responses are provided below:

1. The Division of Medical Assistance and Health Services should refund \$1,841,293 to the federal government for payments to health care providers not designated as New Jersey acute care DSH hospitals under the DSH program.

As explained above, New Jersey does agree with the recommendation that this amount was improperly claimed as FFP. A decreasing adjustment for this amount will be included on the Quarterly Medicaid Statement of Expenditures (form CMS-64) upon issuance of the final audit report.

2. The Division of Medical Assistance and Health Services should adhere to its state plan requirements and CMS guidance when submitting DSH claims to CMS for reimbursement.

The Division of Medical Assistance and Health Services will adhere to its state plan requirements and CMS guidance when submitting DSH claims to CMS for reimbursement.

3. The Division of Medical Assistance and Health Services should thoroughly review all work performed by outside consultants to assure the veracity of future claims to the federal government.

It is the policy and practice of DMAHS to submit accurate claims to the federal government. We have assigned additional resources, and are revising our review procedures and will be taking additional steps to verify the accuracy of future claims.

The opportunity to review and comment on this draft audit report is greatly appreciated. If you have any questions or require additional information, please contact me or David Lowenthal at (609) 588-2820.

Sincerely,



James M. Davy
Acting Commissioner

JMD:2:sig
c: David Lowenthal