



JUN 30 2006

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

FROM: Daniel R. Levinson *Daniel R. Levinson*
Inspector General

SUBJECT: Review of Medicaid Disproportionate Share Hospital Payments to University Hospital, University of Medicine and Dentistry of New Jersey: July 1, 1995, Through June 30, 2001 (A-02-04-01004)

Attached is an advance copy of our final report on Medicaid disproportionate share hospital (DSH) payments to University Hospital, University of Medicine and Dentistry of New Jersey. We will issue this report to the New Jersey Medicaid agency within 5 business days. Our objective was to determine whether DSH payments to University Hospital for State fiscal years 1996 through 2001 complied with the hospital-specific limits imposed by section 1923(g) of the Social Security Act (the Act) and the approved State plan.

Section 1923 of the Act, as amended, requires that States make Medicaid DSH payments to hospitals that serve disproportionate numbers of low-income patients with special needs. The Omnibus Budget Reconciliation Act of 1993 limits these payments to a hospital's uncompensated care costs, which are the annual costs incurred to provide services to Medicaid and uninsured patients less payments received for those patients. This limit is known as the hospital-specific DSH limit.

This is the fifth in a series of reports on Medicaid DSH claims that a consultant prepared under a contingency fee contract with New Jersey. The purpose of the contract was to increase Federal reimbursement by identifying and submitting to the Federal Government unclaimed State expenses. As a result of the consultant's work, University Hospital received an additional \$560 million (\$280 million Federal share) for State fiscal years 1996 through 2001. The Senate Finance Committee has expressed an interest in Medicaid revenue-enhancing arrangements between States and consulting firms and has requested a copy of this report.

We found that DSH payments to University Hospital exceeded the hospital-specific limits imposed by section 1923(g) of the Act and the approved State plan by \$171.4 million (\$85.7 million Federal share). 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.

We recommend that New Jersey (1) refund \$85.7 million 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.

New Jersey disagreed with \$89.5 million of the \$90.6 million refund recommended in our draft report. New Jersey agreed with the remaining recommendations. After reviewing applicable Federal requirements, the State plan, and New Jersey's comments on our draft report, we have revised our findings and recommendations where appropriate.

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 through e-mail at George.Reeb@oig.hhs.gov or James P. Edert, Regional Inspector General for Audit Services, Region II, at (212) 264-4620 or through e-mail at James.Edert@oig.hhs.gov. Please refer to report number A-02-04-01004.

Attachment



DEPARTMENT OF HEALTH & HUMAN SERVICES OFFICE OF INSPECTOR GENERAL

Office of Audit Services
Region II
Jacob K. Javits Federal Building
New York, New York 10278
(212) 264-4620

Report number: A-02-04-01004

JUL - 5 2006

Mr. Kevin M. Ryan
Commissioner
State of New Jersey
Department of Human Services
P.O. Box 700
Trenton, New Jersey 08625-0212

Dear Mr. Ryan:

Enclosed are two copies of the U.S. Department of Health and Human Services (HHS), Office of Inspector General (OIG) final report entitled "Review of Medicaid Disproportionate Share Hospital Payments to University Hospital, University of Medicine and Dentistry of New Jersey: July 1, 1995, Through June 30, 2001." A copy of this report will be forwarded to the HHS action official noted on the next page for review and any action deemed necessary.

The HHS action official will make final determinations as to actions taken on all matters reported. We request that you respond to the HHS action official within 30 days from the date of the 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 the 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-02-04-01004 in all correspondence.

Sincerely,

James P. Edert
Regional Inspector General
for Audit Services

Enclosures

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 MEDICAID
DISPROPORTIONATE SHARE
HOSPITAL PAYMENTS TO
UNIVERSITY HOSPITAL,
UNIVERSITY OF MEDICINE AND
DENTISTRY OF NEW JERSEY:
JULY 1, 1995, THROUGH
JUNE 30, 2001**



Daniel R. Levinson
Inspector General

July 2006
A-02-04-01004

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 all 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. Specifically, these evaluations focus on preventing fraud, waste, or abuse and promoting economy, efficiency, and effectiveness in departmental programs. To promote impact, the reports also present practical recommendations for improving program operations.

Office of Investigations

The Office of Investigations (OI) conducts criminal, civil, and administrative investigations of allegations of wrongdoing in HHS programs or to HHS beneficiaries and of unjust enrichment by providers. The investigative efforts of OI lead to criminal convictions, administrative sanctions, 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 in OIG's internal operations. OCIG imposes program exclusions and civil monetary penalties on health care providers and litigates those actions within HHS. OCIG also represents OIG in the global settlement of cases arising under the Civil False Claims Act, develops and monitors corporate integrity agreements, develops compliance program guidances, renders advisory opinions on OIG sanctions to the health care community, and issues fraud alerts and other industry guidance.

Notices

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

In accordance with the principles of the Freedom of Information Act (5 U.S.C. 552, as amended by Public Law 104-231), Office of Inspector General, Office of Audit Services reports are made available to members of the public to the extent the information is not subject to exemptions in the act. (See 45 CFR part 5.)

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

Section 1923 of the Social Security Act (the Act), as amended, requires that States make Medicaid disproportionate share hospital (DSH) payments to hospitals that serve disproportionate numbers of low-income patients with special needs. The Omnibus Budget Reconciliation Act of 1993 limits these payments to a hospital's uncompensated care costs, which are the annual costs incurred to provide services to Medicaid and uninsured patients less payments received for those patients. This limit is known as the hospital-specific DSH limit.

States have considerable flexibility in defining their DSH programs under sections 1923(a) and (b) of the Act. Each State prepares a State plan that defines how it will operate its Medicaid program and submits the plan to the Centers for Medicare & Medicaid Services (CMS) for approval. In New Jersey, the Department of Human Services, Division of Medical Assistance and Health Services (the State agency) administers 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 percent to 7.5 percent of the additional Federal funds recovered. As a result of Deloitte's calculation of the hospital-specific DSH limits for the period July 1, 1995, through June 30, 2001, University Hospital in Newark received an additional \$560 million (\$280 million Federal share).

The University of Medicine and Dentistry of New Jersey owns and operates University Hospital and the New Jersey Medical School.

OBJECTIVE

Our objective was to determine whether DSH payments to University Hospital for State fiscal years 1996 through 2001 complied with the hospital-specific limits imposed by section 1923(g) of the Act and the approved State plan.

SUMMARY OF FINDINGS

DSH payments to University Hospital exceeded the hospital-specific limits imposed by section 1923(g) of the Act and the approved State plan by \$171,395,379 (\$85,697,689 Federal share).

In its calculations of the hospital-specific DSH limits, Deloitte erroneously included \$169,230,714 of New Jersey Medical School appropriations. This amount was not a DSH-eligible cost and, as such, should not have been included in the DSH limit calculations. In addition, the State agency claimed \$2,164,665 of duplicate DSH expenditures to the Federal Government. New Jersey officials advised us that they had relied on Deloitte to prepare all University Hospital DSH claims and, contrary to Federal requirements, had not ensured the veracity of those claims.

RECOMMENDATIONS

We recommend that New Jersey:

- refund \$85,697,689 to the Federal Government,
- adhere to Federal law and State plan requirements when submitting future DSH claims for Federal reimbursement, and
- review all work performed by consultants to ensure the veracity of future Medicaid claims to the Federal Government.

NEW JERSEY’S COMMENTS

New Jersey disagreed with \$89,500,544 of the \$90,582,877 refund recommended in our draft report and with the related findings. New Jersey agreed with the remaining recommendations.

New Jersey disagreed that it had erroneously included \$169,230,714 of New Jersey Medical School appropriations in the DSH calculations, asserting that the inclusion of these costs was consistent with Medicare principles of reimbursement. New Jersey agreed that it had duplicated \$2,164,665 of DSH expenditures and that it had improperly claimed the \$1,082,332 Federal share.

The full text of New Jersey’s comments is included as an appendix to this report.

OFFICE OF INSPECTOR GENERAL’S RESPONSE

After reviewing applicable Federal requirements, the State plan, and New Jersey’s comments on our draft report, we have revised our findings and recommendations where appropriate.

TABLE OF CONTENTS

	<u>Page</u>
INTRODUCTION	1
BACKGROUND	1
Disproportionate Share Hospital Program	1
New Jersey’s Use of Consultant	1
University of Medicine and Dentistry of New Jersey.....	2
OBJECTIVE, SCOPE, AND METHODOLOGY	2
Objective	2
Scope.....	2
Methodology	2
FINDINGS AND RECOMMENDATIONS	3
INCORRECT CALCULATION OF HOSPITAL-SPECIFIC DISPROPORTIONATE SHARE LIMITS	3
DUPLICATE DISPROPORTIONATE SHARE HOSPITAL CLAIMS	4
NO STATE REVIEW OF DISPROPORTIONATE SHARE HOSPITAL CLAIMS	4
RECOMMENDATIONS	5
NEW JERSEY’S COMMENTS	5
OFFICE OF INSPECTOR GENERAL’S RESPONSE	6
OTHER MATTER: ADJUSTMENT OF ESTIMATED DISPROPORTIONATE SHARE HOSPITAL CLAIMS	6
APPENDIX	
NEW JERSEY’S COMMENTS	

INTRODUCTION

BACKGROUND

Disproportionate Share Hospital Program

Medicaid is a jointly funded Federal and State program that provides medical assistance to qualified low-income people. At the Federal level, the Centers for Medicare & Medicaid Services (CMS) administers the program. Within a broad legal framework, each State designs and administers its own Medicaid program. Each State prepares a State plan that defines how the State will operate its Medicaid program and submits the plan for CMS approval. In New Jersey, the Department of Human Services, Division of Medical Assistance and Health Services (the State agency) administers the Medicaid program, including the disproportionate share hospital (DSH) program.

The Omnibus Budget Reconciliation Act of 1981 established the DSH program, which is codified in section 1923 of the Social Security Act (the Act). Section 1923 requires State Medicaid agencies to make additional payments to hospitals that serve disproportionate numbers of low-income patients with special needs. The Omnibus Budget Reconciliation Act of 1993 limits these payments to a hospital's uncompensated care costs, which are the annual costs incurred to provide services to Medicaid and uninsured patients less payments received for those patients. This limit is known as the hospital-specific DSH limit. To qualify for DSH funding, hospitals must have a Medicaid inpatient utilization rate of not less than 1 percent.

States have considerable flexibility in defining their DSH programs under sections 1923(a) and (b) of the Act. The Federal Government pays its share of Medicaid DSH expenditures according to a formula shown in section 1905(b) of the Act. In New Jersey, the Federal Government and the State contribute 50 percent each.

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 Consulting (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 percent to 7.5 percent of the additional 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 beneficiaries and uninsured individuals by any State agency that had not been submitted for Federal reimbursement. As a result of Deloitte's efforts, the State agency claimed and was reimbursed \$560 million (\$280 million Federal share) in DSH funds for University Hospital in Newark.

University of Medicine and Dentistry of New Jersey

The University of Medicine and Dentistry of New Jersey owns and operates University Hospital, which is an acute care hospital, and the New Jersey Medical School. These separate legal entities are governed and managed by one Board of Trustees and administered by a President and Chief Executive Officer. The respective missions of University Hospital and the New Jersey Medical School are the delivery of health care services and the education of health care professionals.

OBJECTIVE, SCOPE, AND METHODOLOGY

Objective

Our objective was to determine whether DSH payments to University Hospital for State fiscal years (FYs) 1996 through 2001 complied with the hospital-specific limits imposed by section 1923(g) of the Act and the approved State plan.

Scope

Our audit period covered July 1, 1995, through June 30, 2001.

Our audit excluded \$152,181 in prison inmate costs from the total DSH claims of \$560 million for University Hospital. Also, 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.

We conducted our fieldwork at the State agency offices in Mercerville, New Jersey.

Methodology

To accomplish our objective, we:

- reviewed the Omnibus Budget Reconciliation Acts 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 the New Jersey Office of Management and Budget and Deloitte;
- reconciled \$560 million of DSH claims for University Hospital to the Quarterly Medicaid Statements of Expenditures for the Medical Assistance Program (CMS-64s) submitted to the Federal Government for reimbursement;

- obtained from New Jersey the Deloitte calculations for State FYs 1996 through 2001, which Deloitte used to prepare University Hospital's DSH claims totaling \$560 million (\$280 million Federal share);
- traced the costs claimed on the CMS-64s to the annual DSH expenditure calculations;
- traced the costs included in the calculations to hospital cost reports and other supporting documentation;
- evaluated the costs included in the calculations to determine whether they were reasonable and allowable for Federal reimbursement; and
- discussed the audit results with New Jersey Medicaid officials.

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

FINDINGS AND RECOMMENDATIONS

DSH payments to University Hospital exceeded the hospital-specific limits imposed by section 1923(g) of the Act and the approved State plan by \$171,395,379 (\$85,697,689 Federal share).

In its calculations of the hospital-specific DSH limits, Deloitte erroneously included \$169,230,714 of New Jersey Medical School appropriations. This amount was not a DSH-eligible cost and, as such, should not have been included in the DSH limit calculations. In addition, the State agency claimed \$2,164,665 of duplicate DSH expenditures to the Federal Government. New Jersey officials advised us that they had relied on Deloitte to prepare all University Hospital DSH claims and, contrary to Federal requirements, had not ensured the veracity of those claims.

INCORRECT CALCULATION OF HOSPITAL-SPECIFIC DISPROPORTIONATE SHARE LIMITS

Pursuant to Federal law, only costs incurred by a hospital may be included as part of its uncompensated care costs. Specifically, section 1923(g)(1)(A) of the Act states that DSH payments to a hospital may not exceed:

. . . the costs incurred during the year of furnishing hospital services (as determined by the Secretary and net of payments under this title, other than under this section, and by uninsured patients) by the hospital to individuals who either are eligible for medical assistance under the State plan or have no health insurance (or other source of third party coverage) for services provided during the year.

In an August 1994 letter to State Medicaid directors, CMS clarified the DSH provisions of the Omnibus Budget Reconciliation Act of 1993. In regard to the costs of services under the DSH limit, CMS stated that it would:

. . . permit the State to use the definition of allowable costs in its State plan, or any other definition, as long as the costs determined under such a definition do not exceed the amounts that would be allowable under the Medicare principles of cost reimbursement HCFA¹ believes this interpretation of the term “costs incurred” is reasonable because it provides States with a great deal of flexibility up to a maximum standard that is widely known and used in the determination of hospital costs.

Contrary to Federal requirements, Deloitte included the State’s appropriations to the New Jersey Medical School in its calculations of University Hospital’s DSH limits for State FYs 1996 through 2001. During this period, University Hospital and the Medical School were separate legal entities. According to State agency officials, Deloitte included the appropriations as a basis for estimating the costs of training Medical School students at University Hospital because Deloitte could not identify the actual training costs. The amounts included in the DSH limit calculations were not costs incurred by University Hospital in furnishing hospital services and were not included in University Hospital’s cost reports. Because Medicare cost reimbursement principles limit a hospital’s DSH reimbursement to expenses included in its annual cost report, the Medical School’s appropriations were not allowable costs and should not have been included in the calculations of University Hospital’s hospital-specific DSH limits. The inclusion of the Medical School’s appropriations, which were not related to providing hospital services, resulted in an excess claim of \$169,230,714 (\$84,615,357 Federal share).

We made numerous requests to State agency officials for criteria to justify the inclusion of these appropriations as costs in the DSH limit calculations. State officials forwarded our requests directly to Deloitte. Deloitte officials responded that they did not have any additional information and that locating the individuals who had prepared the claims 8 years earlier was a problem.

DUPLICATE DISPROPORTIONATE SHARE HOSPITAL CLAIMS

In reconciling Deloitte’s calculations to the CMS-64s, we found that the State had duplicated \$2,164,665 (\$1,082,332 Federal share) of DSH claims for University Hospital. The State claimed the DSH-eligible expenditures to the Federal Government on the June 30, 1997, quarterly CMS-64 and again on the September 30, 2000, CMS-64. Deloitte recommended that the State claim those expenditures in correspondence dated September 18, 1997, and July 8, 2000.

State officials agreed that they had submitted duplicate claims to the Federal Government. The duplicate claims resulted in a \$1,082,332 Federal overpayment.

NO STATE REVIEW OF DISPROPORTIONATE SHARE HOSPITAL CLAIMS

Federal regulations (45 CFR § 95.505) stipulate that Medicaid State plans are comprehensive, written commitments by the States to supervise and administer the Medicaid program. Furthermore, 42 CFR § 430.30(c) requires that to receive Federal reimbursement, States must

¹CMS was formerly called the Health Care Financing Administration (HCFA).

submit a CMS-64 not later than 30 days after the end of each quarter. The CMS-64 instructions require a State certification as to the veracity of the information provided.

New Jersey officials advised us that they had relied solely on Deloitte to prepare and document University Hospital's DSH claims and had not reviewed the veracity of the claims before submitting them for Federal reimbursement.

RECOMMENDATIONS

We recommend that New Jersey:

- refund \$85,697,689 to the Federal Government,
- adhere to Federal law and State plan requirements when submitting future DSH claims for Federal reimbursement, and
- review all work performed by consultants to ensure the veracity of future Medicaid claims to the Federal Government.

NEW JERSEY'S COMMENTS

In its comments, New Jersey disagreed with \$89,500,544 of the \$90,582,877 refund recommended in our draft report and with the related findings. New Jersey agreed with the remaining recommendations.

New Jersey disagreed that it had erroneously included \$169,230,714 of New Jersey Medical School appropriations in the DSH calculations. According to the State, medical students assist hospital staff in providing health services, and the DSH methodology included expenditures for Medical School services provided to University Hospital. While acknowledging that these Medical School costs were not included in University Hospital's cost reports, the State asserted that the inclusion of these costs in the determination of the cost of providing services to hospital patients was consistent with Medicare principles of reimbursement.

New Jersey also disagreed with our draft report's finding that the State had erroneously included in its DSH calculations \$9,770,375 of costs for medical services provided to patients who were dually insured under Medicare and Medicaid. New Jersey asserted that these patients were eligible for Medicaid inpatient services under its State plan.

New Jersey agreed that it had duplicated \$2,164,665 of DSH expenditures and that it had improperly claimed the \$1,082,332 Federal share.

The full text of New Jersey's comments is included as an appendix to this report.

OFFICE OF INSPECTOR GENERAL'S RESPONSE

The inclusion of \$169,230,714 of Medical School appropriations in the DSH limit calculations was not consistent with Medicare principles of reimbursement. Medicare cost reimbursement principles limit a hospital's DSH reimbursement to expenses included in its annual cost report. In its comments, New Jersey agreed that the Medical School costs were not included in University Hospital's cost reports. Pursuant to section 1923(g) of the Act, this amount is not a cost incurred in providing services to Medicaid and uninsured patients.

After reviewing New Jersey's comments, we have deleted our finding on dually eligible patients and adjusted our recommended refund accordingly.

OTHER MATTER: ADJUSTMENT OF ESTIMATED DISPROPORTIONATE SHARE HOSPITAL CLAIMS

For the period July 1, 1998, through June 30, 2001, the State claimed \$427.8 million (\$213.9 million Federal share) in estimated DSH payments to University Hospital. Based on an agreement with the State, Deloitte was responsible for providing the actual cost data necessary for adjusting the claims to actual costs. In November 2004, Deloitte provided the State with actual DSH costs of \$262.9 million (\$131.5 million Federal share) for this period. As a result, the State made a downward adjustment for the difference of \$164.9 million (\$82.5 million Federal share) on its December 31, 2004, CMS-64.

Even though the State properly adjusted its estimated claims to actual costs, the adjustment could have been done in a more timely manner. The actual cost data needed to adjust the estimated claims were available in University Hospital's annual Medicare cost reports. Instead of making the adjustment when the cost reports became available, the State waited until Deloitte finalized the claims and, as a result, held the \$82.5 million Federal overpayment for 3 to 6 years. We believe that it is reasonable to adjust estimates to actual costs as soon as an annual cost report is finalized.

APPENDIX



State of New Jersey
DEPARTMENT OF HUMAN SERVICES
DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES
P.O. Box 712
Trenton, NJ 08625-0712
Telephone 1-800-356-1561

JON S. CORZINE
Governor

KEVIN M. RYAN
Acting Commissioner

ANN CLEMENCY KOHLER
Director

February 15, 2006

James P. Edert
Regional Inspector General for Audit Services
Department of Health and Human Services
Office of Inspector General
Office of Audit Services
Region II
Jacob K. Javits Federal Building - Room 3900
New York, NY 10278

Re: Report Number A-02-04-01004

Dear Mr. Edert:

This is in response to the Department of Health and Human Services, Office of the Inspector General's (OIG) draft audit report entitled "Review of Medicaid Disproportionate Share Hospital Payments to University Hospital, University of Medicine and Dentistry of New Jersey: July 1, 1995, Through June 30, 2001".

The audit report contains four findings and three recommendations. The report makes the following findings: 1) the calculation of the hospital specific disproportionate share hospital (DSH) limit erroneously included \$169,230,714 of New Jersey Medical School appropriations for Medicaid DSH adjustments, 2) the calculation of the DSH limit erroneously included \$9,770,375 of costs for medical services provided to patients who were insured under Medicare, 3) the Division of Medical Assistance and Health Services claimed \$2,164,665 of duplicate DSH expenditures to the Federal Government and 4) the Division of Medical Assistance and Health Services failed to assure the veracity of these claims prior to submitting them for federal reimbursement.

Regarding the finding related to the State's review of these claims, it is the policy and practice of the State to submit accurate claims. The State has added resources for this purpose, revised its procedures and will take any additional steps necessary to verify the accuracy of future claims.

James P. Edert
February 15, 2006
Page 2

The State disagrees with the finding that the State erroneously included \$169,230,714 in costs of New Jersey Medical School appropriations as DSH adjustments. As part of the education and training of medical students, the students assist hospital staff in providing health services at the hospital. The methodology included medical school expenditures for medical student services to the hospital. These medical school costs are not included in the cost report of the hospital. However, it is consistent with Medicare principles of reimbursement to include these costs in the determination of the cost of providing services to hospital patients.

The State disagrees with the finding that the State erroneously included \$9,770,375 in costs for medical services provided to patients who were insured under Medicare as DSH adjustments. These patients were also eligible for Medicaid coverage for inpatient hospital services. Section 1923(g)(1)(A) of the Social Security Act states "A payment adjustment during a fiscal year shall not be considered to be consistent with subsection (c) with respect to a hospital if a hospital payment adjustment exceeds the costs incurred during the year of furnishing hospital services by the hospital to individuals who either are eligible for medical assistance under the State plan or have no health insurance for services provided during the year." These dually eligible individuals are eligible for medical assistance under the State plan. The claims at issue are proper as they seek reimbursement of costs for Medicaid eligible individuals. The State included the balance of unreimbursed costs remaining after deducting all payments (including Medicaid and Medicare) in its DSH payment adjustment.

With regard to the finding that the State claimed \$2,164,665 of duplicated DSH expenditures to the Federal government, a review of the available documentation indicates that the finding and the draft report are correct. The finding that New Jersey improperly claimed FFP is accurate and the payments were a duplication of a previous claim.

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

1. New Jersey should refund \$90,582,877 to the Federal Government.

As explained above, New Jersey agrees that a duplication in the amount of \$1,082,333 was improperly claimed as FFP. New Jersey does not agree that the remaining amount of \$89,500,544 was improperly claimed as FFP.

2. New Jersey should adhere to its State plan requirements and CMS policy clarification when submitting DSH claims for Federal reimbursement.

The Division of Medical Assistance and Health Services has adhered and will

James P. Edert
February 15, 2006
Page 3

continue to adhere to its State plan requirements and CMS guidance when submitting DSH claims for reimbursement.

3. New Jersey should review all work performed by consultants to ensure the veracity of future Medicaid claims to the Federal Government.

It is the policy and practice of DMAHS to submit accurate claims to the Federal government. Therefore, additional resources have been assigned to this purpose, review procedures have been revised and any additional steps needed to verify the accuracy of future claims will be taken.

The opportunity to review and comment on this 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,



Ann Clemency Kohler
Director

ACK:L
c: David Lowenthal

ACKNOWLEDGMENTS

This report was prepared under the direction of James P. Edert, Regional Inspector General for Audit Services. Other principal Office of Audit Services staff who contributed include:

John J. Madigan, Audit Manager
Anthony Manno, Senior Auditor
Stephanie Iseman, Auditor
Mark Blatt, Auditor
Peili Yao, Auditor

For information or copies of this report, please contact the Office of Inspector General's Public Affairs office at (202) 619-1343.