



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office Of Inspector General
Office Of Audit Services

October 20, 2008

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

Report Number: A-02-04-01015

Richard F. Daines, M.D.
Commissioner
New York State Department of Health
Empire State Plaza, Room 1408
Corning Tower
Albany, New York 12237

Dear Dr. Daines:

Enclosed is the U.S. Department of Health and Human Services (HHS), Office of Inspector General (OIG), final report entitled "Review of Medicaid Graduate Medical Education Revenue in New York State." We will forward a copy of this report to the HHS action official noted on the following page for review and any action deemed necessary.

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

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

If you have any questions or comments about this report, please do not hesitate to call me, or contact James Cox, Audit Manager, at 518-437-9390 extension 222 or through e-mail at James.Cox@oig.hhs.gov. Please refer to report number A-02-04-01015 in all correspondence.

Sincerely,

A handwritten signature in black ink that reads "James P. Edert".

James P. Edert
Regional Inspector General
for Audit Services

Enclosure

Direct Reply to HHS Action Official:

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

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**REVIEW OF MEDICAID
GRADUATE MEDICAL
EDUCATION REVENUE IN NEW
YORK STATE**



Daniel R. Levinson
Inspector General

October 2008
A-02-04-01015

Office of Inspector General

<http://oig.hhs.gov>

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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 Office of Management and Budget requested that we review Medicaid payments to hospitals for medical education because of concerns regarding the growth of the payments and questions about whether Medicaid funds were involved in intergovernmental transfers.

Pursuant to section 1886(h) of the Social Security Act, Medicare funds the graduate medical education (GME) program. Under Medicaid, States may elect in their State plan to further fund the GME program, subject to approval by the Centers for Medicare & Medicaid Services (CMS). The Medicaid program offers more flexibility than Medicare in that States have latitude in determining how to best use available funds.

In New York State, the Department of Health (Health Department) operates the Medicaid program.

Similar to Medicare, the Health Department pays hospitals for Medicaid GME under two categories – direct medical education (DME) and indirect medical education (IME). Payments for DME are intended to help cover costs incurred by hospitals for medical residents and teaching faculty, including salaries, fringe benefits, and allocations of overhead. In addition, it also covers costs associated with hospital-based physicians who are neither residents nor teaching physicians. Because any hospital may employ physicians, not just teaching hospitals, many non-teaching hospitals in New York State receive DME payments, but at a lower rate than teaching hospitals. A hospital reports the total costs it incurs for DME under separate items on its Medicare cost report. Payments for IME are unlike payments for DME in that no corresponding cost items are reported by the hospital on its Medicare cost report. The costs are therefore not precisely defined or quantified.

Our review covered calendar year (CY) 2000, when New York State paid \$992.6 million (\$496.3 million Federal share) in GME to 104 hospitals.

OBJECTIVES

Our objectives were to analyze the Health Department's Medicaid GME payment methodology and the methods used by New York to establish the amount of funds that teaching hospitals receive and to determine whether (1) the Health Department followed the approved State plan in administering the Medicaid GME program, and (2) intergovernmental transfers included any program funds.

SUMMARY OF FINDINGS

Payment Methodology

The Health Department's Medicaid payment methodology for GME was established in 1988, using 1981 data. Since 1988, annual funding levels under this methodology increased each year

using an inflation factor. Of the \$992.6 million (\$496.3 million Federal share) in GME payments in CY 2000, \$423.6 million (\$211.8 million Federal share) was paid for DME and \$569 million (\$284.5 million Federal share) for IME.

DME payments were based on the portion of reimbursable 1981 salaries; fringe benefits; non-salary costs; and allocated overhead for residents, fellows, supervising physicians, and hospital-based physicians associated with services other than exempt units and alternative level of care units. DME payments were volume-adjusted to 1987 and trended to the rate year by the trend factor established pursuant to section 86-1.58 of the State plan, less tuition and supporting grants.

IME payments were an estimate of the costs associated with additional ancillary intensiveness of medical care, more aggressive treatment regimens, and increased availability of state of the art testing technologies resulting from the training of residents and fellows.

Compliance with State Plan

The \$992.6 million (\$496.3 million Federal share) paid by the Health Department for Medicaid GME was in compliance with the State plan.

Graduate Medical Education Rates for Teaching and Non-Teaching Hospitals

Because any hospital may employ physicians, not just teaching hospitals, many non-teaching hospitals in New York State receive DME payments, but at a lower rate than teaching hospitals. Three hospitals continued to be paid at a higher teaching hospital rate after the hospitals discontinued their teaching programs. The hospitals were paid a total of \$229,725 (\$114,862 Federal share) in Medicaid GME funds. Although these payments were allowable under the State plan, the Health Department may want to examine whether its rate-setting process could be modified to permit a more targeted allocation of GME payments to certain hospitals.

Intergovernmental Transfers

The Health Department did not make intergovernmental transfers involving GME funds.

RECOMMENDATION

We recommend that the Health Department examine whether its rate-setting process defined in the State plan could be modified to permit a more targeted allocation of GME payments to certain hospitals.

HEALTH DEPARTMENT COMMENTS

In its comments on our draft report, the Health Department disagreed with our findings and indicated that all GME payments adhered to the State plan. The Health Department indicated that State plan does not reference a hospital's current teaching status as a condition of receiving Medicaid GME payments and does not address whether a change in a hospital's teaching status affects its eligibility for Medicaid GME payments. The Health Department further indicated that

the State plan does not permit it to annually review whether teaching hospitals are eligible for GME funds. The Health Department comments are included in their entirety as an appendix.

OFFICE OF INSPECTOR GENERAL RESPONSE

We agree with the Health Department's comments. Based on these comments and additional documentation provided separate from its response, we revised our finding and recommendation regarding hospitals' teaching status.

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INTRODUCTION

BACKGROUND

The Office of Management and Budget requested that we review Medicaid reimbursement to hospitals for medical education because of concerns regarding the growth of the payments and questions about whether Medicaid funds were involved in intergovernmental transfers.

Medicaid Program

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

New York State's Medicaid Program

In New York State, the Department of Health (Health Department) operates the Medicaid program. Within DOH, the Office of Medicaid Management administers the program. The Health Department uses the Medicaid Management Information System, a computerized payment and information reporting system, to maintain claim information used to calculate graduate medical education payments.

Graduate Medical Education

Medicare is one of the traditional funding sources for graduate medical education (GME). Medicare funding is authorized under section 1886(h) of the Act. In contrast to Medicare, Medicaid does not mandate funding of GME. Nevertheless, almost all States have opted to provide such funding.

New York State's CMS-approved State plan permits the Health Department to add a GME component to hospitals' inpatient rates. New York State funds this program with general budget appropriations through the Health Department. The program is based on the Medicare design, whereby funds are distributed based on formulas that consider the number of residents and other characteristics of each hospital's teaching program. Similar to Medicare, the Health Department funds Medicaid GME under two categories – direct medical education (DME) and indirect medical education (IME).

Payments for DME are intended to help cover costs incurred by hospitals for medical residents and teaching faculty, including their salaries, fringe benefits, and allocations of overhead. In addition, it also covers costs associated with hospital-based physicians, who are neither residents nor teaching physicians. Because any hospital may employ physicians, not just teaching hospitals, many non-teaching hospitals in New York State receive DME payments, but at a lower

rate than teaching hospitals. A hospital reports the total costs it incurs for DME under separate items on its Medicare cost report. Payments for IME¹ are unlike payments for DME in that no corresponding cost items are reported by the hospital on its Medicare cost report. The costs are therefore not precisely defined or quantified by the hospitals.

Intergovernmental Transfers

In certain circumstances, Medicaid allows the use of public funds (funds from county-, city-, or State-owned facilities) as the State's share of financial participation. Pursuant to 42 CFR § 433.51, public funds may serve as the State's share for drawing Federal funds if the public funds are appropriated directly to the State or local Medicaid agency or are transferred from other public agencies to the State or local agency and are under its administrative control. Prior Office of Inspector General audits found that some States abused this provision. For example, some States required county providers to return Medicaid payments to the State through the use of intergovernmental transfers. These States, in some instances, then used the funds for non-Medicaid purposes.

OBJECTIVES, SCOPE, AND METHODOLOGY

Objectives

Our objectives were to analyze the Health Department's Medicaid GME payment methodology and the methods used by New York to establish the amount of funds that teaching hospitals receive and to determine whether (1) the Health Department followed the approved State plan in administering the Medicaid GME program, and (2) intergovernmental transfers included any program funds.

Scope

Our review covered CY 2000 DME and IME payments, but did not include capitated payments made to teaching hospitals by Medicaid managed care organizations. We did not audit the 1981 cost data used to develop the base year rates.

In addition, we did not review the overall internal control structure of the State or the Medicaid program. Rather, we reviewed only the internal controls that pertained directly to our objective.

We performed fieldwork at the Health Department's offices in Albany, New York.

Methodology

To accomplish our audit objectives, we:

- reviewed Federal laws and regulations, and the State plan;

¹IME should not be confused with indirect costs (i.e., allocations of overhead paid under DME).

- held discussions with the Health Department officials to ascertain State policies, procedures, and guidance related to claiming Medicaid DME and IME;
- extracted paid claims from the Medicaid Management Information System which were used in calculating GME payments;
- determined whether hospitals that received Medicaid GME funds were teaching or non-teaching facilities;
- calculated the amount of Medicaid GME funds paid to 104 hospitals based on formulas confirmed by the Health Department officials;
- identified the amount of Medicaid GME funding paid to non-teaching hospitals; and
- analyzed the Medicaid GME payment methodology to determine whether intergovernmental transfers were used.

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.

FINDINGS AND RECOMMENDATION

The Health Department included Medicaid GME payments in the hospital's inpatient rates. DME and IME components were based on formulas included in the State plan and on information submitted by hospitals. The \$992.6 million (\$496.3 million Federal share) paid by the Health Department for Medicaid GME payments was in compliance with the State plan. Although allowable under the State plan, the Health Department may want to examine whether its rate-setting process could be modified to permit a more targeted allocation of GME payments to certain hospitals. We found that three hospitals continued to be paid at a higher teaching hospital rate after the hospitals converted from being teaching hospitals to non-teaching hospitals.² Finally, the Health Department did not make intergovernmental transfers involving GME funds.

PAYMENT METHODOLOGY

The Health Department's Medicaid payment methodology for GME was established in 1988, using 1981 data. Since 1988, annual funding levels under this methodology increased each year using an inflation factor. Hospitals must have approved medical education programs to qualify for DME and IME payments. Both types of payments are integral parts of hospitals' inpatient rates. The total medical education component is adjusted for the same inflation rates used to update the Health Department's established payment rates per discharge. Of the total \$992.6

²The hospitals were paid \$229,725 (\$114,862 Federal share) in Medicaid GME funds.

million (\$496.3 million Federal share) in GME payments, \$423.6 million (\$211.8 million Federal share) was paid for DME and \$569 million (\$284.5 million Federal share) for IME.

DME payments were based on the portion of reimbursable 1981 salaries; fringe benefits; non-salary costs; and allocated overhead for residents, fellows, supervising physicians, and hospital-based physicians associated with services other than exempt units and alternative level of care units. DME payments were volume-adjusted to 1987, and trended to the rate year by the trend factor established pursuant to section 86-1.58 of the State plan, less tuition and supporting grants.

IME payments were an estimate of the costs associated with additional ancillary intensiveness of medical care, more aggressive treatment regimens, and increased availability of state of the art testing technologies resulting from the training of residents and fellows in the rate year.

COMPLIANCE WITH STATE PLAN

Pursuant to section 86-1.52 of the State plan, payments to hospitals shall include, among others, the direct costs associated with GME. In addition, pursuant to section 86-1.54 of the State plan, hospital-specific direct operating costs of GME shall be the portion of 1981 salaries, fringe benefits, non-salary costs, and allocated overhead for residents, fellows, supervising physicians, and hospital-based physicians associated with services other than exempt units and alternative level of care units.

The \$992.6 million (\$496.3 million Federal share) paid by the Health Department for Medicaid GME was in compliance with the State plan.

GRADUATE MEDICAL EDUCATION RATES FOR TEACHING AND NON-TEACHING HOSPITALS

Because any hospital may employ physicians, not just teaching hospitals, many non-teaching hospitals in New York State receive DME payments, but at a lower rate than teaching hospitals. Three hospitals (Brookhaven Memorial Hospital, Sheehan Memorial Emergency, and White Plains Hospital) continued to be paid at a higher teaching hospital rate after the hospitals discontinued their teaching programs. The hospitals were paid a total of \$229,725 (\$114,862 Federal share) in Medicaid GME funds. Although these payments were allowable under the State plan, the Health Department may want to examine whether its rate-setting process could be modified to permit a more targeted allocation of GME payments to certain hospitals.

Health Department officials stated that hospitals with an approved teaching program in the 1981 base year continued to be paid the higher GME rates associated with teaching hospitals. Health Department officials further stated that other hospitals that initiated a teaching program or expanded a current teaching program also did not have their rates adjusted accordingly.

INTERGOVERNMENTAL TRANSFERS

The Health Department did not make intergovernmental transfers involving GME funds.

RECOMMENDATION

We recommend that the Health Department examine whether its rate-setting process defined in the State plan could be modified to permit a more targeted allocation of GME payments to certain hospitals.

HEALTH DEPARTMENT COMMENTS

In its written comments dated July 25, 2008, the Health Department disagreed with our findings and indicated that all GME payments adhered to the State plan. The Health Department indicated that sections 86-1.50(f)(1) and 86-1.54(g) of the State plan do not reference a hospital's current teaching status as a condition of receiving Medicaid GME payments. Furthermore, section 86-1.50(f)(2) does not address whether a subsequent change in a hospital's teaching status as a condition of receiving Medicaid GME payments. Finally, the Health Department indicated that the State plan does not permit it, on a prospective basis, to annually review whether teaching hospitals are eligible for GME funds. The Health Department's comments are included in their entirety as an appendix.

OFFICE OF INSPECTOR GENERAL RESPONSE

We agree with the Health Department's comments. Based on these comments and additional documentation provided separate from its response, we revised our finding and recommendation regarding hospitals' teaching status.

APPENDIX



Corning Tower The Governor Nelson A. Rockefeller Empire State Plaza Albany, New York 12237

Richard F. Daines, M.D.
Commissioner

Wendy E. Saunders
Chief of Staff

July 25, 2008

James P. Edert
Regional Inspector General for Audit Services
Department of Health and Human Services
Region II
Jacob Javitz Federal Building
26 Federal Plaza
New York, New York 10278

Ref. No. A-02-04-01015

Dear Mr. Edert:

Enclosed are the New York State Department of Health's comments on the Department of Health and Human Services, Office of Inspector General's draft audit report A-02-04-01015 on "Review of Medicaid Graduate Medical Education Revenue in New York State."

Thank you for the opportunity to comment.

Sincerely,

A handwritten signature in black ink, appearing to read 'Wendy Saunders', with a stylized flourish at the end.

Wendy E. Saunders
Chief of Staff

Enclosure

cc: Stephen Abbott
Deborah Bachrach
Homer Charbonneau
Ronald Farrell
Gail Kerker
Sandra Pettinato
Robert W. Reed

**New York State Department of Health
Comments on the
Department of Health and Human Services
Office of Inspector General
Draft Audit Report A-02-04-01015 on
“Review of Medicaid Graduate Medical Education Revenue
in New York State”**

The following are the New York State Department of Health's (Department) comments in response to the Department of Health and Human Services, Office of Inspector General (OIG) draft audit report A-02-04-01015 on "Review of Medicaid Graduate Medical Education Revenue in New York State."

OIG Recommendations:

The audit report recommends that New York State:

- report a \$114,862 financial adjustment to CMS for the Federal share of graduate medical education funds paid to non-teaching hospitals;
- identify graduate medical education funds paid to non-teaching hospitals subsequent to our audit period and report a financial adjustment to CMS; and
- review the eligibility of each teaching hospital annually.

Department Response:

The Department respectfully disagrees with the audit findings and maintains that all payments for graduate medical education (GME) adhered to the approved State Plan. The audit report states that GME payments to three non-teaching hospitals during calendar year 2000 were contrary to the State Plan, which is not accurate. State Plan sections 86-1.50 (f)(1) and 86-1.54 (g) direct that GME funding is to be based on reimbursable 1981 salaries, fringe benefits, non-salary costs and allocated overhead for residents, fellows, and supervising physicians; trended to the rate year by the approved trend factor. These sections do not reference a hospital's current teaching status as a condition of receiving Medicaid GME payments. Furthermore, section 86-150(f)(2) defines indirect medical education as an estimate of the costs associated with additional ancillary intensiveness of medical care, more aggressive treatment regimens and increased availability of state of the art testing technologies resulting from the training of residents and fellows. This section does not address whether a subsequent change in a hospital's teaching status affects its eligibility for Medicaid GME payments.

Recently approved amendments to the State Plan were made in 2004 and in 2007 which updated the costs and statistics utilized to calculate GME payments. The base year was updated from 1981 to 2001 for direct and indirect GME payments, effective for periods after April 2004 for increased Medicaid payments, and for periods after April

2007 for decreased Medicaid payments. The update reflects changes in hospitals' teaching programs which are reflected in the payments subsequently made to affected hospitals. Finally, regarding the portion of the recommendation to review the eligibility of each teaching hospital annually, the approved State Plan does not permit the Department to process these updates prospectively.