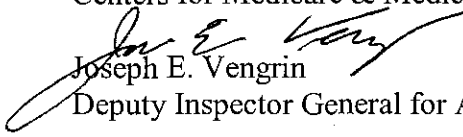




JUL 14 2005

TO: Dennis G. Smith
Director, Center for Medicaid and State Operations
Centers for Medicare & Medicaid Services

FROM: 
Joseph E. Vengrin
Deputy Inspector General for Audit Services

SUBJECT: Review of Medicaid Obstetrical Maternal Services Claims Billed as Family Planning Under the New York State Medicaid Program (A-02-05-01001)

Attached is an advance copy of our final report on Medicaid family planning claims made by New York State for beneficiaries in the Medicaid Obstetrical Maternal Services (MOMS) program. We will issue this report to the State within 5 business days. This audit is one of a series on Medicaid family planning claims made by the State.

New York State's MOMS program provides Medicaid-eligible pregnant women with improved access to maternity services by paying increased Medicaid fees to physicians, nurse practitioners, and licensed midwives (providers).

Our objective was to determine whether the MOMS services for which New York received Federal reimbursement at the enhanced 90-percent rate qualified as family planning services.

The MOMS services for which the State received Federal reimbursement at the enhanced 90-percent rate did not qualify as family planning services. As a result, the State improperly received \$1,566,740 in Federal Medicaid funds. This amount represents the difference between the enhanced 90-percent rate and the applicable 50-percent or 52.95-percent Federal medical assistance percentage during our audit period.

In our opinion, this overpayment occurred because (1) MOMS providers improperly coded the family planning indicator box on the Medicaid claim form, (2) the State did not issue clear guidance to MOMS providers that any procedure provided to a pregnant woman may not be claimed as a family planning service, and (3) the State's Medicaid Management Information System (MMIS) edit routines were inadequate to identify provider claims with specialty code 159 (a unique code assigned to MOMS providers by the State) that were not related to family planning services.

We recommend that the State:

- refund \$1,566,740 to the Federal Government;
- instruct MOMS providers not to preset the family planning indicator field to "Yes" in their Medicaid claims software;

- issue clear guidance to MOMS providers that any procedures provided to pregnant women may not be claimed as family planning services;
- strengthen MMIS edit routines to make use of all appropriate information on the MOMS claims to properly identify those that are not related to family planning; and
- determine the amount of Federal funds improperly reimbursed at the 90-percent rate for Medicaid payments to MOMS providers for non-family-planning services after our January 1, 2000, through December 31, 2003, audit period and refund that amount to the Federal Government.

The State concurred with our first and last recommendations and indicated that it would take specific actions to address the remaining 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-02-05-01001 in all correspondence.

Attachment



DEPARTMENT OF HEALTH & HUMAN SERVICES OFFICE OF INSPECTOR GENERAL

JUL 20 2005

OFFICE OF AUDIT SERVICES
Region II
Jacob K. Javits Federal Building
New York, New York 10278
(212) 264-4620

Report Number: A-02-05-01001

Antonia C. Novello, M.D., M.P.H, Dr. P.H.
Commissioner
New York State Department of Health
Empire State Plaza
14th Floor, Room 1408
Corning Tower
Albany, New York 12237

Dear Dr. Novello:

Enclosed are two copies of the Department of Health and Human Services (HHS), Office of Inspector General (OIG) final report entitled "Review of Medicaid Obstetrical Maternal Services Claims Billed as Family Planning Under the New York State Medicaid Program." A copy of this report will be forwarded to the action official noted below for review and any action deemed necessary.

The HHS action official named below will make final determination as to actions taken on all matters reported. We request that you respond to the HHS action official within 30 days. 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-02-05-01001 in all correspondence.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Timothy J. Horgan".

Timothy J. Horgan
Regional Inspector General
for Audit Services

Enclosures

Page 2 – Antonia C. Novello, M.D., M.P.H, Dr. P.H.

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 OBSTETRICAL
MATERNAL SERVICES CLAIMS
BILLED AS FAMILY PLANNING
UNDER THE NEW YORK STATE
MEDICAID PROGRAM**



**Daniel R. Levinson
Inspector General**

**JULY 2005
A-02-05-01001**

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:

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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

The Federal Government and the States share the costs of the Medicaid program. During our audit period (January 1, 2000, through December 31, 2003), the Federal medical assistance percentage (FMAP) in New York State was 50 or 52.95 percent.¹

Section 1903(a)(5) of the Social Security Act and 42 CFR §§ 433.10 and 433.15 provide enhanced 90-percent Federal funding for family planning services under Medicaid. Section 4270 of the Centers for Medicare & Medicaid Services (CMS) State Medicaid Manual states that family planning services are those provided to prevent or delay pregnancy or to otherwise control family size. CMS's Financial Management Review Guide Number 20, which was disseminated to States, specifies that any procedure provided to a woman known to be pregnant may not be considered a family planning service reimbursable at 90 percent.

New York State's Medicaid Obstetrical Maternal Services (MOMS) program provides Medicaid-eligible pregnant women with improved access to maternity services by paying increased Medicaid fees to physicians, nurse practitioners, and licensed midwives (providers).

OBJECTIVE

Our objective was to determine whether the MOMS services for which New York received Federal reimbursement at the enhanced 90-percent rate qualified as family planning services.

SUMMARY OF FINDINGS

The MOMS services for which the State received Federal reimbursement at the enhanced 90-percent rate did not qualify as family planning services. As a result, the State improperly received \$1,566,740 in Federal Medicaid funds. This amount represents the difference between the enhanced 90-percent rate and the applicable 50-percent or 52.95-percent FMAP.

In our opinion, this overpayment occurred because (1) MOMS providers improperly coded the family planning indicator box on the Medicaid claim form, (2) the State did not issue clear guidance to MOMS providers that any procedure provided to a pregnant woman may not be claimed as a family planning service, and (3) the State's Medicaid Management Information System (MMIS) edit routines were inadequate to identify provider claims with specialty code 159 (a unique code assigned to MOMS providers by the State) that were not related to family planning services.

¹The FMAP was 50 percent from January 1, 2000, through March 31, 2003, and 52.95 percent from April 1 through December 31, 2003.

RECOMMENDATIONS

We recommend that the State:

- refund \$1,566,740 to the Federal Government;
- instruct MOMS providers not to preset the family planning indicator field to “Yes” in their Medicaid claims software;
- issue clear guidance to MOMS providers that any procedures provided to pregnant women may not be claimed as family planning services;
- strengthen MMIS edit routines to make use of all appropriate information on the MOMS claims to properly identify those that are not related to family planning; and
- determine the amount of Federal funds improperly reimbursed at the 90-percent rate for Medicaid payments to MOMS providers for non-family-planning services after our January 1, 2000, through December 31, 2003, audit period and refund that amount to the Federal Government.

STATE’S COMMENTS

In its comments on our draft report, the State concurred with our first and last recommendations and indicated that it would take specific actions to address the remaining recommendations. The State’s comments are included in their entirety as an appendix to this report.

TABLE OF CONTENTS

	<u>Page</u>
INTRODUCTION	1
BACKGROUND	1
Medicaid Program.....	1
New York’s Medicaid Program.....	1
Medicaid Coverage of Family Planning Services.....	1
Medicaid Obstetrical Maternal Services Program.....	2
OBJECTIVE, SCOPE, AND METHODOLOGY	2
Objective.....	2
Scope.....	2
Methodology.....	3
FINDINGS AND RECOMMENDATIONS	4
SERVICES UNRELATED TO FAMILY PLANNING	4
CAUSES OF THE OVERPAYMENT	4
Improperly Coded Claims.....	4
Inadequate State Guidance.....	5
Inadequate Computer System Edits.....	5
CALCULATION OF THE UNALLOWABLE AMOUNT	5
RECOMMENDATIONS	6
STATE’S COMMENTS	6
OFFICE OF INSPECTOR GENERAL’S RESPONSE	7
APPENDIX	
STATE’S COMMENTS	

INTRODUCTION

BACKGROUND

Medicaid Program

Pursuant to Title XIX of the Social Security Act (the Act), the Medicaid program pays the health care costs of persons who qualify because of medical conditions, economic conditions, or other factors. The Federal Government and participating States share Medicaid costs. The Federal share is known as the Federal medical assistance percentage (FMAP). Within the Federal Government, the Centers for Medicare & Medicaid Services (CMS) administers the Medicaid program.

To participate in the Medicaid program, a State must submit, and receive CMS's approval of, a State plan. The State plan is a comprehensive document describing the nature and scope of the State's Medicaid program and the State's obligations to the Federal Government. The Medicaid program pays for medically necessary services that are specified in Medicaid law when included in the State plan and provided to individuals eligible under the State plan.

New York's Medicaid Program

In New York State, the Department of Health is the State agency responsible for operating the Medicaid program. Within the Department of Health, the Office of Medicaid Management administers the Medicaid program. The Department of Health uses the Medicaid Management Information System (MMIS), a computerized payment and information reporting system, to process and pay Medicaid claims.

The State's FMAP was 50 percent for claims paid from January 1, 2000, through March 31, 2003, and 52.95 percent from April 1 through December 31, 2003.

Medicaid Coverage of Family Planning Services

Section 1905(a)(4)(C) of the Act requires States to provide family planning services and supplies to individuals of childbearing age who are eligible under the State plan and who desire such services and supplies. Section 1902(a)(10)(A) of the Act specifies that family planning services be available to "categorically needy" Medicaid recipients, while section 1902(a)(10)(C) states that the services may be provided to "medically needy" Medicaid recipients at the State's option. Section 1903(a)(5) of the Act and 42 CFR §§ 433.10 and 433.15 provide 90-percent Federal funding for family planning services.

Section 4270 of the CMS State Medicaid Manual states that family planning services are those provided to prevent or delay pregnancy or otherwise control family size. The manual states that, in general, Federal funding at the 90-percent matching rate is available for the costs of counseling services and patient education; examination and treatment by medical professionals in accordance with applicable State requirements; laboratory examinations and tests; medically

approved methods, procedures, pharmaceutical supplies, and devices to prevent conception; and infertility services, including sterilization reversals.

On January 30, 1991, CMS issued Financial Management Review Guide Number 20, entitled “Family Planning Services,” to the State via Medicaid State Operations Letter 91-9. The guide states that any procedure provided to a woman known to be pregnant may not be considered a family planning service reimbursable at 90-percent Federal funding. Likewise, tests and procedures performed during pregnancy, regardless of their purpose or intent, are not considered family planning services eligible for 90-percent Federal funding. Updates to the CMS review guide in 1993, 1997, and 2002 contained the same provisions.

State regulations at New York Compilation of Codes, Rules and Regulations, Title 18, section 505.13 define family planning services as the offering, arranging, and furnishing of those health services that enable individuals, including minors who may be sexually active, to prevent or reduce the incidence of unwanted pregnancies.

Medicaid Obstetrical Maternal Services Program

New York State’s Medicaid Obstetrical Maternal Services (MOMS) program provides Medicaid-eligible pregnant women with improved access to maternity services by paying increased Medicaid fees to providers. Practitioners participating in the MOMS program are required to refer Medicaid-eligible pregnant women for nonmedical health-supportive services such as nutrition and psychosocial assessment and counseling, health education, and care coordination. All women enrolled in the MOMS program receive complete pregnancy care, including routine pregnancy checkups, hospital care during pregnancy and delivery, full health care for the woman until at least 2 months after delivery, and full health care coverage for the baby up to 1 year of age. The State assigns specialty code 159 to all MOMS providers, who include this code on their Medicaid claims.

OBJECTIVE, SCOPE, AND METHODOLOGY

Objective

Our objective was to determine whether the MOMS services for which New York received Federal reimbursement at the enhanced 90-percent rate qualified as family planning services.

Scope

Our audit period covered January 1, 2000, through December 31, 2003. During our audit, we did not review the overall internal control structure of the State or the Medicaid program. Rather, we reviewed internal controls that were significant to the objective of our audit.

We performed fieldwork at the State Department of Health in Albany, NY; the State MMIS fiscal agent in Menands, NY; and 13 providers’ offices from November through December 2004.

Methodology

To accomplish our objective, we:

- reviewed Federal and State laws, regulations, and guidance and prior Office of Inspector General audit reports;
- held discussions with CMS officials and obtained an understanding of CMS guidance provided to State officials regarding Medicaid family planning claims;
- held discussions with State officials to ascertain State policies, procedures, and guidance for claiming Medicaid reimbursement for family planning services;
- performed survey work at three MOMS providers to understand their coding procedures;
- ran computer programming applications at the MMIS fiscal agent that identified 216,365 paid practitioner services claimed at 90 percent by the State and totaling \$11,630,313 (\$10,467,219 Federal share) for the period January 1, 2000, through December 31, 2003;
- from the universe of 216,365 claims for practitioner services, extracted 14,270 claims with specialty code 159 (MOMS providers);
- from the 14,270 paid claims from MOMS providers, eliminated 2,108 claims with diagnosis or procedure codes that CMS or the State identified as always or almost always related to family planning services and eliminated 247 claims for beneficiaries in client aid category 56;²
- identified a revised universe of 11,915 (14,270 less 2,108 less 247) MOMS claims totaling \$3,983,545 (\$3,585,190 Federal share), which we believed were ineligible for 90-percent Federal funding;
- from the revised universe of 11,915 MOMS claims, used simple random sampling techniques to select a discovery sample of 30 claims to validate that all 11,915 MOMS claims were ineligible for 90-percent Federal funding;
- performed site visits to the 13 MOMS providers that submitted the 30 sampled claims;
- reviewed the medical records for the 30 sampled claims to determine whether services provided were eligible for 90-percent Federal funding; and

²Beneficiaries in client aid category 56 are included in a family planning waiver program that we intend to review under a separate audit.

- calculated the unallowable amount paid.³

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

FINDINGS AND RECOMMENDATIONS

The MOMS services for which the State received Federal reimbursement at the enhanced 90-percent rate did not qualify as family planning services. As a result, the State improperly received \$1,566,740 in Federal Medicaid funds. This amount represents the difference between the enhanced 90-percent rate and the applicable 50-percent or 52.95-percent FMAP.

In our opinion, this overpayment occurred because (1) MOMS providers improperly coded the family planning indicator box on the Medicaid claim form, (2) the State did not issue clear guidance to MOMS providers that any procedure provided to a pregnant woman may not be claimed as a family planning service, and (3) the State's MMIS edit routines were inadequate to identify provider claims with specialty code 159 that were not related to family planning services.

SERVICES UNRELATED TO FAMILY PLANNING

As described in the "Methodology" section of this report, we identified a universe of 11,915 MOMS claims that we believed did not qualify for 90-percent Federal funding. To validate our belief, we selected a random sample (a discovery sample) of 30 claims. Our belief was validated in that none of the 30 MOMS claims were for family planning services.

Because none of the 30 sampled Medicaid paid claims were related to the provision of family planning services, none were eligible for Federal reimbursement at the enhanced 90-percent rate. Specifically, 29 of the 30 sampled claims involved services to pregnant women, and 1 involved reading a cardiograph of a male patient hospitalized for chest pains. Services provided to pregnant women are not reimbursable at the 90-percent Federal funding rate. The 29 claims included 17 diagnostic ultrasounds of the fetus, 5 services related to antepartum care, 4 non-stress tests, and 3 deliveries of babies. The provider claim that involved reading a cardiograph of a male patient was not related to family planning and was not eligible for Federal reimbursement at the 90-percent rate.

CAUSES OF THE OVERPAYMENT

As discussed below, we found three main causes of the overpayment.

Improperly Coded Claims

For all 30 sampled claims, providers inappropriately checked the "Yes" box in the family planning indicator field on the Medicaid claim forms. The presence of a "Yes" in that field

³Claims improperly paid at the enhanced Federal rate of 90 percent were eligible for reimbursement only at the applicable FMAP.

prompts the State's MMIS to place these claims with those eligible for 90-percent reimbursement. During interviews at the 13 providers who submitted the 30 sampled claims, officials at 7 providers indicated that their Medicaid claims software had defaulted the family planning indicator field to "Yes" for claims under the MOMS program, 3 providers were unsure why the box was checked, 2 providers believed that MOMS services were related to family planning, and 1 provider indicated that the box was checked in error.

Inadequate State Guidance

The State did not issue clear guidance to MOMS providers indicating that any procedure provided to a pregnant woman may not be claimed as a family planning service. All 13 providers who submitted the claims in our sample improperly checked the family planning indicator box on their Medicaid claim forms.

Inadequate Computer System Edits

The design of the computer edit routines in the MMIS was such that the presence of a "Yes" in the family planning indicator box was the only element needed for the system to identify a service as family planning. When this indicator was checked, the edits did not consider other pertinent information on the Medicaid claim form, such as procedure or diagnosis codes, to detect non-family-planning services. As a result, the State improperly received Federal reimbursement at 90 percent, rather than 50 or 52.95 percent, for provider claims that were coded as specialty code 159.

We identified the same control problems in two previous audit reports.⁴ We recommended that the State strengthen its MMIS edit routines to make use of all appropriate claim information, not just the family planning indicator field, to properly identify provider claims that were related to family planning services. State officials agreed with this recommendation; however, based on the results of this review, it appears that these controls have not been implemented.

CALCULATION OF THE UNALLOWABLE AMOUNT

The State improperly received \$1,566,740. We did not question the medical necessity of any of the services rendered or their eligibility for Medicaid reimbursement. We calculated the allowable payments for all 11,915 claims in our universe at the FMAP of 50 percent (claims with payment dates from January 1, 2000, through March 31, 2003) or 52.95 percent (claims with payment dates from April 1, 2003, through December 31, 2003). As such, our audit is questioning only the difference between the applicable FMAP and the enhanced Federal funding rate, or 40 percent (90 minus 50) and 37.05 percent (90 minus 52.95) of the Medicaid paid amounts for the 11,915 claims. Accordingly, for the period January 1, 2000, through December 31, 2003, the State was improperly reimbursed \$1,566,740. This amount was computed as follows:

⁴"Review of Selected Inpatient Claims Billed as Family Planning Services Under the New York State Medicaid Program" (A-02-90-01011, October 1990) and "Review of Inpatient and Ancillary Services Billed as Family Planning Under the New York State Medicaid Program" (A-02-90-01029, August 1991).

Calculation of Unallowable Federal Reimbursement

Period	Total Medicaid Payments	Difference in Rates	Federal Share Questioned
1/1/2000–3/31/2003	\$3,079,200	40.00%	\$1,231,680
4/1/2003–12/31/2003	904,345	37.05%	335,060
Total	\$3,983,545		\$1,566,740

RECOMMENDATIONS

We recommend that the State:

- refund \$1,566,740 to the Federal Government;
- instruct MOMS providers not to preset the family planning indicator field to “Yes” in their Medicaid claims software;
- issue clear guidance to MOMS providers that any procedures provided to pregnant women may not be claimed as family planning services;
- strengthen MMIS edit routines to make use of all appropriate information on the MOMS claims to properly identify those that are not related to family planning; and
- determine the amount of Federal funds improperly reimbursed at the 90-percent rate for Medicaid payments to MOMS providers for non-family-planning services after our January 1, 2000, through December 31, 2003, audit period and refund that amount to the Federal Government.

STATE’S COMMENTS

In its June 17, 2005, comments on our draft report, the State concurred with our first and last recommendations.

In response to our second recommendation regarding the preset family planning indicator field, the State said that it would implement system edits to ensure that MOMS providers were reimbursed at 50 percent for non-family-planning services. Regarding our third recommendation to issue guidance that procedures provided to pregnant women may not be claimed as family planning, the State indicated that it would provide guidance to MOMS providers on the correct completion of claims. In response to our fourth recommendation to use all information on MOMS claims to identify those not related to family planning, the State said that it would strengthen edits to properly identify family planning claims of MOMS providers.

The State’s comments are included in their entirety as an appendix to this report.

OFFICE OF INSPECTOR GENERAL'S RESPONSE

We applaud the State's efforts to ensure that claims comply with Federal requirements; however, our previous audits (A-02-90-01011 dated October 1990 and A-02-90-01029 dated August 1991) identified similar errors. We remain concerned that the State's actions to date have not been effective. New York needs to ensure that only qualified family planning services are claimed at the 90-percent rate.

APPENDIX

 STATE OF NEW YORK
DEPARTMENT OF HEALTH

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

Antonia C. Novello, M.D., M.P.H., Dr.P.H.
Commissioner

Dennis P. Whalen
Executive Deputy Commissioner

June 17, 2005

Timothy J. Horgan
Regional Inspector General for
Audit Services
DHHS OIG Office of Audit Services
26 Federal Plaza
Room 3900A
New York, New York 10278

Dear Mr. Horgan:

Enclosed are the Department of Health's comments on the DHHS - OIG's Draft Audit (A-02-05-01001) entitled "Medicaid Obstetrical Maternal Services Claims Billed As Family Planning Under the New York State Medicaid Program."

Thank you for the opportunity to comment.

Sincerely,



Dennis P. Whalen
Executive Deputy Commissioner

Enclosure

cc: Dr. Brustman
Mr. Griffin
Mr. Howe
Ms. Kuhmerker
Mr. Seward
Mr. Reed
Mr. Van Slyke
Mr. Wing

**Department of Health
Comments on the
Department of Health and Human Services
Office of Inspector General
Draft Audit Report A-02-05-01001 Entitled
"Medicaid Obstetrical Maternal Services
Claims Billed As Family Planning
Under the New York State
Medicaid Program"**

The following are the Department of Health's (DOH) comments in response to the Department of Health and Human Services (DHHS), Office of Inspector General (OIG) draft audit report (A-02-05-01001) entitled "Medicaid Obstetrical Maternal Services Claims Billed As Family Planning Under the New York State Medicaid Program."

Recommendation #1:

Refund \$1,566,740 to the Federal Government.

Response #1:

The Department's Office of Medicaid Management (OMM) agrees with the audit findings and will refund the calculated amount of \$1,566,740.

Recommendation #2:

Instruct MOMS providers not to preset the family planning indicator field to "Yes" in their Medicaid claims software.

Response #2:

OMM will implement system edits to insure that claims submitted by Medicaid Obstetrical Maternal Services (MOMS) providers are reimbursed at the appropriate rate of 50% for non-family planning services.

Recommendation #3:

Issue clear guidance to MOMS providers that any procedures provided to pregnant women may not be claimed as family planning services.

Response #3:

OMM will provide guidance to MOMS providers on the correct completion of claim forms for procedures provided to pregnant women and for non-family planning services.

Recommendation #4:

Strengthen MMIS edit routines to make use of all appropriate information on the MOMS claims to properly identify those that are not related to family planning.

Response #4:

OMM will strengthen Medicaid Management Information System (MMIS) edits to insure proper identification of family planning claims submitted by MOMS providers.

Recommendation #5:

Determine the amount of Federal funds improperly reimbursed at the 90-percent rate for Medicaid payments to MOMS providers for non-family-planning services after our January 1, 2000, through December 31, 2003, audit period and refund that amount to the Federal Government.

Response #5:

OMM will determine the amount paid for claims reimbursed at 90% for non-family planning services for the time period after the audit period and refund that amount.

ACKNOWLEDGMENTS

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

John Berbach, *Audit Manager*

Kevin Smith, *Senior Auditor*

Victoria Inzerillo, *Auditor*

Darlene Ahigian, *Auditor*

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