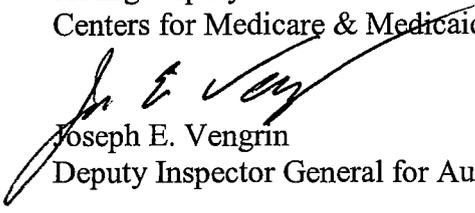




JUL 26 2007

TO: Herb Kuhn
Acting Deputy Administrator
Centers for Medicare & Medicaid Services

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

SUBJECT: Review of Pharmacy Claims Billed as Family Planning Under New Jersey's Medicaid Program (A-02-05-01019)

Attached is an advance copy of our final report on Medicaid pharmacy claims billed as family planning services by New Jersey. We will issue this report to the State within 5 business days. This audit is the first of a series on Medicaid family planning claims made by the State.

Our objective was to determine whether the prescription drug claims for which New Jersey received Federal reimbursement at the enhanced 90-percent rate of Federal financial participation (FFP) qualified as family planning services.

New Jersey improperly received Federal reimbursement at the enhanced 90-percent rate of FFP for 160,995 prescription drug claims that did not qualify as family planning services. As a result, the State improperly received \$2,219,746 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.

The overpayment occurred because the State incorrectly designated 227 National Drug Codes (NDC) as related to family planning in its Medicaid Management Information System (MMIS). As a result, the State improperly claimed these codes for 90-percent Federal funding.

We recommend that the State:

- refund \$2,219,746 to the Federal Government;
- review all NDCs presently coded as family planning in the MMIS to verify that they are related to family planning;
- periodically review all NDCs to ensure that they are appropriately coded in the MMIS; and

- determine the amount of Federal Medicaid funds improperly reimbursed at the 90-percent rate for non-family-planning NDCs, both prior and subsequent to our audit period, and refund that amount to the Federal Government.

In comments on our draft report, New Jersey concurred with our 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 James P. Edert, Regional Inspector General for Audit Services, Region II, at (212) 264-4620. Please refer to report number A-02-05-01019.

Attachment



DEPARTMENT OF HEALTH & HUMAN SERVICES OFFICE OF INSPECTOR GENERAL

JUL 27 2007

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

Report Number: A-02-05-01019

Ms. Jennifer Velez
Commissioner
New Jersey Department of Human Services
P.O. Box 712
Trenton, New Jersey 08625-0712

Dear Ms. Velez:

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 Pharmacy Claims Billed as Family Planning Under New Jersey's Medicaid Program." 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 determination 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 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 are generally made available to the public to the extent the information is not subject to exemptions in the Act (45 CFR part 5). Accordingly, within 10 business days after the final report is issued, it 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. Please refer to report number A-02-05-01019 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 PHARMACY CLAIMS
BILLED AS FAMILY PLANNING
UNDER NEW JERSEY'S
MEDICAID PROGRAM**



**Daniel R. Levinson
Inspector General**

**July 2007
A-02-05-01019**

Office of Inspector General

<http://oig.hhs.gov>

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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. The Federal share of the Medicaid program is referred to as Federal financial participation (FFP). The Federal share of a State's Medicaid program is determined by the Federal medical assistance percentage (FMAP). During our audit period (February 1, 2001, through January 31, 2005), the FMAP in New Jersey was 50 or 52.95 percent.

Section 1903(a)(5) of the Social Security Act and 42 CFR §§ 433.10 and 433.15 provide enhanced 90-percent FFP for family planning services. According to section 4270 of the Centers for Medicare & Medicaid Services "State Medicaid Manual," family planning services prevent or delay pregnancy or otherwise control family size. In addition, this section generally permits 90-percent FFP for pharmaceutical supplies and devices to prevent conception. Only items and procedures clearly furnished or rendered for family planning purposes may be claimed at the 90-percent rate of FFP.

OBJECTIVE

Our objective was to determine whether the prescription drug claims for which New Jersey received Federal reimbursement at the enhanced 90-percent rate of FFP qualified as family planning services.

SUMMARY OF FINDINGS

New Jersey improperly received Federal reimbursement at the enhanced 90-percent rate of FFP for 160,955 prescription drug claims that did not qualify as family planning services. As a result, the State improperly received \$2,219,746 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.

The overpayment occurred because the State incorrectly designated 227 National Drug Codes (NDC) as related to family planning in its Medicaid Management Information System (MMIS). As a result, the State improperly claimed these codes for 90-percent Federal funding.

RECOMMENDATIONS

We recommend that the State:

- refund \$2,219,746 to the Federal Government;
- review all NDCs presently coded as family planning in the MMIS to verify that they are related to family planning;

- periodically review all NDCs to ensure that they are appropriately coded in the MMIS; and
- determine the amount of Federal Medicaid funds improperly reimbursed at the 90-percent rate for non-family-planning NDCs, both prior and subsequent to our audit period, and refund that amount to the Federal Government.

STATE'S COMMENTS

In comments on our draft report, New Jersey concurred with our findings and recommendations. The State's comments are included in their entirety as Appendix B.

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INTRODUCTION

BACKGROUND

Medicaid Program

Title XIX of the Social Security Act (the Act) established the Medicaid program, which pays the health care costs of persons who qualify by virtue of medical conditions, economic conditions, or other factors. The Federal Government and the States share Medicaid costs. The Federal share of the Medicaid program is referred to as Federal financial participation (FFP). The Federal share of a State's Medicaid program is determined by the Federal medical assistance percentage (FMAP). Within the Federal Government, the Centers for Medicare & Medicaid Services (CMS) administers Medicaid.

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

Medicaid Coverage of Family Planning Services

Section 1905(a)(4)(C) of the Act requires States to furnish 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 beneficiaries, while section 1902(a)(10)(C) specifies that the services may be rendered to "medically needy" Medicaid beneficiaries at the State's option. Section 1903(a)(5) of the Act and 42 CFR §§ 433.10(c)(1) and 433.15(b)(2) authorize 90-percent Federal funding for family planning services.

According to section 4270 of the CMS "State Medicaid Manual," family planning services prevent or delay pregnancy or otherwise control family size. In addition, this section generally permits an enhanced 90-percent rate of FFP for counseling services and patient education; examination and treatment by medical professionals pursuant to State requirements; laboratory examinations and tests; medically approved methods, procedures, pharmaceutical supplies, and devices to prevent conception; and infertility services, including sterilization reversals. The manual indicates that States are free to determine the specific services and supplies that will be covered as Medicaid family planning services as long as those services are sufficient in amount, duration, and scope to reasonably achieve their purpose. However, only items and procedures clearly furnished or rendered for family planning purposes may be claimed at the 90-percent rate of FFP.

The CMS "Financial Management Review Guide Number 20," which CMS disseminated to New Jersey via Medicaid State Operations Letter 91-9, allows the State to use a variety of coding systems and codes for the pharmaceuticals that it reimburses under Medicaid. Most of the medications covered as family planning services and reimbursable at the 90-percent Federal funding rate are used for birth control or the stimulation of ovulation in infertile women. Other

medications covered at the 90-percent rate are used incident to, or as part of, procedures performed for family planning purposes, such as pain medications following a sterilization procedure. However, the guide does not specifically list what pharmaceutical codes may be reimbursed at the enhanced 90-percent FFP rate.

New Jersey's Medicaid State plan states that family planning services and supplies are covered for both categorically and medically needy beneficiaries. The plan states that the Norplant contraception system is covered with certain limitations. However, the Norplant system is not covered in conjunction with any other form of contraception. The plan also states that depo-provera contraception injections are covered without prior authorization. However, medical services, medical procedures, and prescription drugs used to promote or enhance fertility are not covered. Expanded adolescent family planning services, including provisions for risk behavior management, contraception education and counseling, health education and counseling, and care management activities, are limited to individuals under the age of 21 and to Family Planning Clinics and Federally Qualified Health Centers certified by the New Jersey Department of Health to provide these services.

State regulations (New Jersey Administrative Code, Title 10, Chapter 66, section 2.5) provide that family planning services include medical history and physical examinations, diagnostic and laboratory tests, drugs and biologicals, medical supplies and devices, counseling, continued medical supervision, continuity of care, and genetic counseling. The regulations state that services provided primarily for the diagnosis and treatment of infertility, including sterilization reversals, and related clinic visits, drugs, laboratory services, radiological and diagnostic services, and surgical procedures, are not covered by New Jersey's Medicaid program. However, there is an exception when a service is provided that is ordinarily considered an infertility service but is provided for another purpose. In this instance, the provider must submit supporting documentation with the claim to the State for medical review and approval of payment.

State regulations (New Jersey Administrative Code, Title 10, Chapter 51, section 1.11) provide that covered pharmaceutical services include contraceptive devices and contraceptive supplies, such as diaphragms, jellies, foams, and condoms, as well as over-the-counter family planning supplies, such as pregnancy test kits.

The State plan and State regulations do not identify which prescription or nonprescription drugs relate to family planning.

New Jersey's Medicaid Program

In New Jersey, the Department of Human Services operates the Medicaid program. Within the Department of Human Services, the Division of Medical Assistance and Health Services administers the program. The Department of Human Services 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 February 1, 2001, through March 31, 2003; 52.95 percent from April 1, 2003, through June 30, 2004; and 50 percent from July 1, 2004, through January 31, 2005.

To identify drugs related to family planning, the State reviews a weekly listing of all National Drug Codes (NDC), which is provided by a State contractor. The State then assigns drug class "F" in the MMIS to those NDCs identified as related to family planning. When pharmacies submit prescription drug claims to the MMIS for payment, the NDCs coded as drug class "F" are automatically placed with those eligible for the enhanced 90-percent rate of FFP.

OBJECTIVE, SCOPE, AND METHODOLOGY

Objective

Our objective was to determine whether the prescription drug claims for which New Jersey received Federal reimbursement at the enhanced 90-percent rate of FFP qualified as family planning services.

Scope

Our audit period covered February 1, 2001, through January 31, 2005. We did not review the overall internal control structure of the State or the Medicaid program; we reviewed only the internal controls that pertained directly to our objective. We did not review the claims in our sample for compliance with other Medicaid requirements for reimbursement; we reviewed only the qualifications of the prescription drugs to determine whether they related to family planning.

We conducted fieldwork at the Division of Medical Assistance and Health Services in Mercerville, New Jersey, and at eight prescribing providers' offices.

Methodology

To accomplish our objective, we:

- reviewed Federal and State laws, regulations, guidance, and the State plan;
- held discussions with CMS officials and acquired an understanding of CMS's guidance to State officials on Medicaid family planning claims;
- held discussions with State officials to ascertain State policies, procedures, and guidance for claiming Medicaid reimbursement for family planning services; and
- ran computer programming applications, which identified 237,598 paid pharmacy claims, representing 416 NDCs, for prescription drugs billed at 90 percent by the State and totaling \$8,187,232 (\$7,367,508 Federal share) for the period February 1, 2001, through January 31, 2005.

To identify a universe of those prescription drugs not used for family planning purposes, we:

- shared the list of 416 NDCs with New Jersey officials, including a State pharmacist, to identify those drugs used and not used for family planning purposes based on the pharmacist's professional knowledge of prescription drug usage;
- determined, as per State officials and the State pharmacist, that 243 of the 416 NDCs were not related to family planning;
- shared the list of 243 NDCs with a CMS headquarters physician, who identified 16 NDCs that he believed were related to family planning, for a revised list of 227 NDCs that were not related to family planning;
- determined that 189 NDCs (416 minus 227) representing 76,643 prescription drug claims were related to family planning and therefore allowable at 90-percent FFP and not included in our audit; and
- used the list of 227 NDCs to extract from the universe of 237,598 claims for prescription drugs 160,955 claims totaling \$5,663,655 (\$5,096,578 Federal share) that were improperly billed as family planning during our review period.

To further validate our conclusion that the 160,955 claims were not related to family planning and ineligible for 90-percent Federal funding, we:

- used simple random sampling to select a discovery sample of 30 claims from the universe of 160,955 claims;
- obtained and reviewed prescriptions for the 30 sampled claims from the pharmacies that filled them to identify the prescribing physicians;
- obtained and reviewed the medical records from the prescribing physicians for the 30 sampled claims to determine why the drugs were prescribed and whether the drugs were related to family planning and eligible for 90-percent Federal funding; and
- determined that the 30 prescription drugs were not related to family planning, as described in Appendix A.

To determine the State's actions, we obtained various e-mails from State officials indicating that after their State pharmacist determined that 243 of the 416 NDCs were improperly coded as family planning, the family planning indicator was removed from these drugs within the State's MMIS and that none of these drugs are now being reimbursed at the enhanced Federal rate of 90 percent.

Based on the pharmacist's and the CMS headquarters physician's determinations, along with our discovery sample of 30 claims and the State's actions, we concluded that the 160,955 prescription drug claims did not qualify for the enhanced 90-percent rate of FFP. To calculate

the unallowable amount of FFP, we computed the difference between the enhanced 90-percent rate and the FMAP for each claim.

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

FINDINGS AND RECOMMENDATIONS

New Jersey improperly received Federal reimbursement at the enhanced 90-percent rate of FFP for 160,955 prescription drug claims that did not qualify as family planning services. As a result, the State improperly received \$2,219,746 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.

The overpayment occurred because the State incorrectly coded the 227 NDCs in question as related to family planning in its MMIS, designating them eligible for 90-percent Federal funding.

SERVICES UNRELATED TO FAMILY PLANNING

Section 4270 of the CMS “State Medicaid Manual” specifies that Federal funding at the 90-percent matching rate is available for the costs of medically approved pharmaceutical supplies to prevent conception. The manual indicates that States are free to determine the specific services and supplies that will be covered as Medicaid family planning services as long as those services are sufficient in amount, duration, and scope to reasonably achieve their purpose. However, only items and procedures (including prescription drugs) clearly furnished or rendered for family planning purposes may be claimed at the 90-percent rate of FFP.

According to the “CMS Financial Management Review Guide Number 20,” the majority of medications covered as family planning services and reimbursable at the 90-percent Federal funding rate are used for birth control or the stimulation of ovulation in infertile women. Other medications covered at the 90-percent rate are used incident to, or as part of, procedures performed for family planning purposes, such as pain medications following a sterilization procedure.

New Jersey’s Medicaid State plan states that family planning services and supplies are covered for both categorically and medically needy beneficiaries. State regulations (New Jersey Administrative Code, Title 10, Chapter 66, section 2.5) provide that family planning services include medical history and physical examinations, diagnostic and laboratory tests, drugs and biologicals, medical supplies and devices, counseling, continued medical supervision, continuity of care, and genetic counseling. The regulations state that services provided primarily for the diagnosis and treatment of infertility, including sterilization reversals, and related clinic visits, drugs, laboratory services, radiological and diagnostic services, and surgical procedures, are not covered by New Jersey’s Medicaid program. Additionally, State regulations (New Jersey Administrative Code, Title 10, Chapter 51, section 1.11) provide that covered pharmaceutical services include contraceptive devices and contraceptive supplies, such as diaphragms, jellies, foams, and condoms, as well as over-the-counter family planning supplies, such as pregnancy test kits.

All 30 claims in our sample were unrelated to family planning services. As described in the “Methodology” section, we identified a universe of 160,955 prescription drug claims that we believed did not qualify for 90-percent Federal funding. For the 416 NDCs billed as family planning drugs, a State pharmacist and State officials identified 243 NDCs as not being related to family planning. We shared this list with a CMS physician and refined the list further to 227 NDCs that were not related to family planning. We used the 227 NDC codes to extract from the universe of 237,598 claims for prescription drugs 160,955 claims totaling \$5,663,655 (\$5,096,578 Federal share) that were ineligible for 90-percent Federal funding. To further validate that these claims were unrelated to family planning, we selected a random sample (discovery sample) of 30 claims. We questioned the following claims:

- Nineteen claims involved prescriptions for hormone replacement therapy for conditions such as menopause, urinary incontinence, hysterectomy, or uterine cancer.
- Seven claims involved prescriptions to treat or control seizures.
- Three claims involved prescriptions to prevent or stabilize osteoporosis.
- One claim involved a prescription to control sexual aggression.

Because these claims were not related to family planning, they were not eligible for the enhanced 90-percent rate. Appendix A contains a summary of the 30 prescription drug claims unrelated to family planning.

FAMILY PLANNING INDICATOR IMPROPERLY CODED

Based on their review of the 416 NDCs claimed as family planning during our audit period, State and CMS officials determined that 227 NDCs were improperly coded as drug class “F” in the MMIS.¹ According to State officials, prescription drugs were coded as drug class “F” if they were for family planning. However, the officials advised us that the software used in the MMIS to mark NDCs as family planning was not updated, nor were the NDC listings reviewed to ensure that only family planning drugs were coded as drug class “F.” Additionally, State officials indicated that they had no written policies regarding periodic review of NDCs. As a result, when pharmacies submitted claims for any of the 227 NDCs, they were automatically claimed for 90-percent Federal reimbursement. However, the 227 NDCs were not related to family planning and therefore were not eligible for 90-percent Federal reimbursement.

In various e-mails, State officials indicated that after their State pharmacist determined that 243 of the 416 NDCs were improperly coded as family planning, the family planning indicator was removed from these drugs within their MMIS and that none of these drugs are now being reimbursed at the enhanced Federal rate of 90 percent.

¹State officials identified 243 NDCs improperly coded as family planning. A CMS headquarters physician reviewed the list and determined that 16 of the 243 NDCs were related to family planning, for a revised total of 227 NDCs that were improperly coded as family planning.

CALCULATION OF THE UNALLOWABLE AMOUNT

Based on the review of the 30 sampled claims, together with our determination that Federal laws, regulations, and guidance prohibit the State from claiming Medicaid reimbursement at the enhanced 90-percent Federal funding rate for non-family-planning services, we conclude that the State improperly claimed \$2,219,746.

We did not question the medical necessity of the services or their eligibility for Medicaid reimbursement. We calculated the difference for all 160,955 claims in our universe at the FMAP of 50 percent (for claims with payment dates from February 1, 2001, through March 31, 2003, and from July 1, 2004, through January 31, 2005) or 52.95 percent (for claims with payment dates from April 1, 2003, through June 30, 2004). Therefore, our audit questioned only the difference between the applicable FMAP and the enhanced Federal funding rate, or 40 percent (90 minus 50) or 37.05 percent (90 minus 52.95), of the Medicaid paid amounts for the 160,955 claims. Accordingly, the State was improperly reimbursed \$2,219,746 for the audit period. (See the table below.)

Calculation of Unallowable Federal Reimbursement

Period	Total Medicaid Payments	Difference in Rates	Federal Share Questioned
2/1/2001–3/31/2003	\$3,409,708	40.00%	\$1,363,883
4/1/2003–6/30/2004	1,549,705	37.05%	574,166
7/1/2004–1/31/2005	704,242	40.00%	281,697
Total	\$5,663,655		\$2,219,746

RECOMMENDATIONS

We recommend that the State:

- refund \$2,219,746 to the Federal Government;
- review all NDCs presently coded as family planning in the MMIS to verify that they are related to family planning;
- periodically review all NDCs to ensure that they are appropriately coded in the MMIS; and
- determine the amount of Federal Medicaid funds improperly reimbursed at the 90-percent rate for non-family-planning NDCs, both prior and subsequent to our audit period, and refund that amount to the Federal Government.

STATE'S COMMENTS

In comments on the draft report, New Jersey concurred with our findings and recommendations. The State's comments are included in their entirety as Appendix B.

APPENDIXES

**SUMMARY OF THE 30 SAMPLE PRESCRIPTION DRUG
CLAIMS UNRELATED TO FAMILY PLANNING**

Sample Number	NDC¹	Description
1	00032170801	A 68-year-old beneficiary was prescribed prometrium for hormone replacement therapy after the onset of menopause.
2	00083231062	A 93-year-old male beneficiary was prescribed estraderm because of sexual aggression toward female residents of his nursing home.
3	00046086781	A 74-year-old beneficiary was prescribed premarin for menopausal symptoms and to prevent osteoporosis.
4	00046086881	A 63-year-old beneficiary was prescribed premarin for hormone replacement therapy after the onset of menopause.
5	00046086781	A 55-year-old beneficiary was prescribed premarin for hormone replacement therapy after the onset of menopause.
6	00046087506	A 71-year-old beneficiary was prescribed prempo for hormone replacement therapy after the onset of urinary incontinence.
7	00046097505	A 44-year-old beneficiary was prescribed prempo, which is used for hormone replacement therapy. We were not able to obtain the medical records for this beneficiary despite 33 attempts to contact the prescribing physician.
8	00083002730	A 20-year-old beneficiary was prescribed tegretol to treat a seizure disorder.
9	00046086681	A 56-year-old beneficiary was prescribed premarin for hormone replacement therapy after the onset of menopause.
10	00083002730	A 58-year-old beneficiary was prescribed tegretol to treat a seizure disorder.
11	00083002730	A 43-year-old male beneficiary was prescribed tegretol to treat a seizure disorder.
12	00083232062	A 65-year-old beneficiary was prescribed estraderm for hormone replacement therapy after the onset of menopause.

Sample Number	NDC	Description
13	00046086781	An 80-year-old beneficiary was prescribed premarin to stabilize osteoporosis, which was aggravated by a hysterectomy.
14	00046086781	A 43-year-old beneficiary was prescribed premarin for hormone replacement therapy, as she was menopausal because of a hysterectomy.
15	50419045104	A 69-year-old beneficiary was prescribed climara for hormone replacement therapy after the onset of menopause.
16	00046086781	A 64-year-old beneficiary was prescribed premarin for hormone replacement therapy after the onset of menopause.
17	00083002730	A 43-year-old male beneficiary was prescribed tegretol to treat a seizure disorder.
18	00083002730	A 45-year-old male beneficiary was prescribed tegretol to treat a seizure disorder.
19	00046257306	A 69-year-old beneficiary was prescribed prempase for hormone replacement therapy after the onset of menopause.
20	00046086881	A 33-year-old beneficiary was prescribed premarin for hormone replacement therapy because of pelvic pain and to try to avoid surgery.
21	00046086799	A 78-year-old beneficiary was prescribed premarin for hormone replacement therapy after the onset of menopause and to prevent osteoporosis.
22	00046086781	A 44-year-old beneficiary was prescribed premarin due to vasomotor instability and to prevent osteoporosis. The beneficiary had had a hysterectomy.
23	00083002730	A 26-year-old male beneficiary was prescribed tegretol to treat a seizure disorder.
24	00046087506	An 80-year-old beneficiary was prescribed prempo for hormone replacement therapy after the onset of menopause.
25	00555087202	A 59-year-old beneficiary was prescribed medroxyprogesterone for hormone replacement therapy to prevent uterine cancer.

Sample Number	NDC	Description
26	59762374001	A 54-year-old beneficiary was prescribed medroxyprogesterone for hormone replacement therapy because of perimenopausal symptoms.
27	00046086481	A 72-year-old beneficiary was prescribed premarin for hormone replacement therapy after the onset of menopause.
28	00083002730	A 40-year-old male beneficiary was prescribed tegretol, which is used to treat seizure disorders. We were not able to obtain medical records from the prescribing physician.
29	00046087506	A 59-year-old beneficiary was prescribed prempo for hormone replacement therapy.
30	00046086881	A 67-year-old beneficiary was prescribed premarin for hormone replacement therapy after the onset of menopause.

¹NDC = National Drug Code.



State of New Jersey
DEPARTMENT OF HUMAN SERVICES
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JON S. CORZINE
Governor

JENNIFER VELEZ
Acting Commissioner

JOHN R. GUHL
Director

March 27, 2007

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-02-05-01019

Dear Mr. Edert:

I am writing in response to the Department of Health and Human Services, Office of the Inspector General's (OIG) draft audit report entitled "Review of Pharmacy Claims Billed as Family Planning Under New Jersey's Medicaid Program."

The audit report contains one finding and four recommendations. The report makes the finding that New Jersey improperly received Federal reimbursement at the enhanced 90-percent rate of FFP for 160,955 prescription drug claims which did not qualify as family planning services. As a result, the State improperly received \$2,219,746 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.

The State agrees with the finding that it improperly received \$2, 219746 in Federal Medicaid funds. There were 227 National Drug Codes (NDC) that were not correctly designated within the Medicaid Management Information System (MMIS) that were a part of two inappropriate drug classes for family planning purposes.

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

1. New Jersey should refund \$2,219,746 to the Federal Government.

New Jersey will make a decreasing adjustment of \$2,219,746 on the CMS-64 report upon issuance of the final audit report.

2. New Jersey should review all NDCs presently coded as family planning in the MMIS to verify that they are related to family planning.

New Jersey did review all NDC's that were coded as family planning in MMIS and they are now appropriately coded.

3. New Jersey should periodically review all NDCs to ensure that they are appropriately coded in the MMIS.

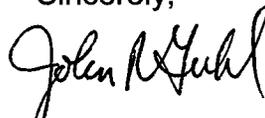
New Jersey will periodically review all NDC's to ensure they are appropriately coded in the MMIS.

4. New Jersey should determine the amount of Federal Medicaid funds improperly reimbursed at the 90-percent rate for non-family-planning NDCs, both prior and subsequent to the audit period, and refund that amount to the Federal Government.

New Jersey is currently looking at any improperly reimbursed non-family planning NDC's that may have been reimbursed at an incorrect rate and will refund to the Federal government if found not in compliance.

The opportunity to review and comment on this draft report is greatly appreciated. If you have any questions or require additional information, please contact me or David Lowenthal at 609-588-7933.

Sincerely,



John R. Guhl
Director

JRG:L

c: Jennifer Velez
David Lowenthal