

Department of Health and Human Services

**OFFICE OF  
INSPECTOR GENERAL**

**NEW JERSEY CLAIMED  
EXCESSIVE MEDICAID  
DISPROPORTIONATE SHARE  
HOSPITAL PAYMENTS FOR  
FIVE COUNTY-OPERATED  
PSYCHIATRIC FACILITIES**

*Inquiries about this report may be addressed to the Office of Public Affairs at  
[Public.Affairs@oig.hhs.gov](mailto:Public.Affairs@oig.hhs.gov).*



Gloria L. Jarmon  
Deputy Inspector General  
for Audit Services

November 2014  
A-02-13-01035

# *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.

***New Jersey claimed Federal Medicaid reimbursement for Disproportionate Share Hospital (DSH) payments totaling almost \$12 million for five county-operated psychiatric facilities that exceeded the facilities' hospital-specific DSH limits.***

## **INTRODUCTION**

### **WHY WE DID THIS REVIEW**

Under the Medicaid Disproportionate Share Hospital (DSH) program, the New Jersey Department of Human Services (State agency) is required to make payments to hospitals that provide significant amounts of uncompensated care<sup>1</sup> to Medicaid and low-income populations. These DSH payments may not exceed the hospitals' uncompensated care costs for providing services during the year to patients who are eligible for Medicaid or have no health insurance (known as the "hospital-specific limit").<sup>2</sup> During prior reviews of New Jersey's claims for Federal Medicaid reimbursement for DSH payments, we found a significant number of payments that did not meet Federal requirements.<sup>3</sup> We performed this review to determine whether this condition exists for costs claimed for county-operated psychiatric facilities.

### **OBJECTIVE**

Our objective was to determine whether the State agency's DSH payments claimed for six county-operated psychiatric facilities exceeded the hospital-specific limits for calendar years (CYs) 2010 and 2011.

### **BACKGROUND**

#### **Medicaid Program**

The Medicaid program provides medical assistance to low-income individuals and individuals with disabilities. The Federal and State Governments jointly fund and administer Medicaid. At the Federal level, the Centers for Medicare & Medicaid Services (CMS) administers Medicaid. 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.

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<sup>1</sup> Uncompensated care costs are costs incurred to provide services to Medicaid and uninsured patients less payments received for those services.

<sup>2</sup> Social Security Act, section 1923(g)(1)(A).

<sup>3</sup> *The New Jersey Department of Human Services Claimed Medicaid Disproportionate Share Hospital Payments to Five Hospitals That Did Not Meet Federal Eligibility Requirements* (A-02-09-01017, issued November 14, 2012), *New Jersey Claimed Excessive Medicaid Disproportionate Share Hospital Payments to Four Hospitals* (A-02-10-01042, issued March 27, 2014).

## **Medicaid Disproportionate Share Hospital Program**

The Omnibus Budget Reconciliation Act of 1981 established the DSH program. Under the DSH program, States are required to make special payments, known as DSH payments, to hospitals that serve a disproportionate share of low-income or uninsured patients. DSH payments may not exceed the hospital-specific limit.

In New Jersey, the State agency administers the DSH program. The State agency estimates the hospital-specific limit for each hospital using historical data from a prior year.<sup>4</sup> The Medicaid State plan requires that these estimates be subsequently adjusted on the basis of the hospitals' actual costs.<sup>5</sup>

## **Payments to County-Operated Psychiatric Facilities**

Six of New Jersey's twenty-one counties operate psychiatric facilities. New Jersey requires these counties to fund the expenditures for uninsured residents of county-operated psychiatric facilities. The State agency and these facilities use a certified public expenditure (CPE) funding mechanism to claim reimbursement for the county-operated psychiatric facilities' Medicaid expenditures.<sup>6</sup>

## **HOW WE CONDUCTED THIS REVIEW**

Our review covered CPEs incurred by six county-operated psychiatric facilities and claimed as DSH expenditures by the State agency for CYs 2010 and 2011, totaling \$271,153,603 (\$135,576,802 Federal share). We verified the hospital-specific limits using hospital cost reports and compared them with the amounts estimated and claimed for Federal reimbursement.

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.

Appendix A contains the details of our audit scope and methodology.

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<sup>4</sup> Specifically, the State agency relies on hospitals' certified cost reports from prior years to estimate the hospitals' current-year DSH costs.

<sup>5</sup> New Jersey State plan, Attachment 4.19A, page II-37.

<sup>6</sup> CPEs are actual expenditures that a governmental entity (e.g., county hospital, local school district) certifies it has incurred in providing eligible Medicaid services (42 CFR 433.51). States may claim CPEs for Federal Medicaid reimbursement as long as the expenditures comply with Federal regulations and are used for Medicaid program purposes.

## **FINDING**

The State agency claimed DSH payments totaling \$23,711,219 (\$11,855,610 Federal share) that exceeded five of the county-operated psychiatric facilities' hospital-specific limits. The remaining DSH payments totaling \$247,442,384 (\$123,721,192 Federal share) were equal to or less than the hospital-specific limits. The overpayments occurred because the State agency had not established procedures for reconciling and adjusting the facilities' expenditures to ensure that DSH payments did not exceed hospital-specific limits.

## **RECOMMENDATIONS**

We recommend that the State agency:

- refund \$11,855,610 to the Federal Government and
- establish procedures for reconciling and adjusting the county-operated psychiatric facilities' expenditures to ensure that the facilities' DSH payments do not exceed hospital-specific limits.

## **STATE AGENCY COMMENTS**

In written comments on our draft report, the State agency indicated that it did not concur with our first recommendation (financial disallowance). Regarding our second recommendation, the State agency said that it has implemented procedures to ensure that the amounts claimed for reimbursement for all psychiatric hospitals are allowable in accordance with Federal regulations and guidelines.

The State agency stated that the amount of our recommended disallowance might not be accurate because the State agency's claims were based on estimates that had not yet been reviewed and adjusted to reflect finalized cost and payment data. The State agency asserted that, even if the estimates were accurate, the State and counties incurred and claimed in excess of the maximum amount that the State agency was allowed to be reimbursed under the Federal DSH program. Therefore, according to the State agency, the disallowance should not be refunded.

The State agency's comments are included in their entirety as Appendix B.

## **OFFICE OF INSPECTOR GENERAL RESPONSE**

After reviewing the State agency's comments, we maintain that our finding and recommendations are valid. We calculated our recommended disallowance based on the most current audited cost reports and payment data available as of the end of our fieldwork (February 2014). In addition, the State agency did not provide any evidence to support its assertion that our recommended disallowance should be offset by unreimbursed DSH costs.

## **APPENDIX A: AUDIT SCOPE AND METHODOLOGY**

### **SCOPE**

Our review covered \$271,153,603 (\$135,576,802 Federal share) of CPE that the State agency claimed under the DSH program for six county-operated psychiatric facilities during CYs 2010 and 2011. Our objective did not require an understanding or assessment of the State agency's overall internal control structure. We limited our review to gaining an understanding of the State agency's procedures for calculating the costs claimed under the DSH program.

We performed our fieldwork at the State agency's offices in Trenton, New Jersey, from September 2013 through February 2014.

### **METHODOLOGY**

To accomplish our objective, we:

- reviewed applicable Federal and State requirements;
- obtained from the State agency a list of six county-operated psychiatric facilities that received DSH payments during CYs 2010 and 2011;
- validated ownership of the six county-operated psychiatric facilities to verify that they were public entities;
- reviewed the State agency's Quarterly Medicaid Statement of Expenditures for the Medical Assistance Program, Form CMS-64, for CYs 2010 and 2011 to determine the costs claimed for county-operated psychiatric facilities under the DSH program for Federal reimbursement;
- for each of the six county-operated psychiatric facilities, obtained from the State agency the CYs 2010 and 2011 hospital cost reports;
- compared the DSH payments claimed on the CMS-64 with the hospital-specific limit to determine whether the State agency claimed in excess of the limit; and
- discussed the results of our review with State agency officials.

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.

## APPENDIX B: STATE AGENCY COMMENTS



### State of New Jersey

DEPARTMENT OF HUMAN SERVICES  
DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES  
P.O. Box 712  
Trenton, NJ 08625-0712

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*Director*

September 22, 2014

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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  
26 Federal Plaza, Room 3900  
New York, NY 10278

**Re: New Jersey Response—Draft Audit Report of Excessive DSH Claiming for Five County-operated Psychiatric Facilities, A-02-13-01035**

Dear Mr. Edert:

This letter provides the New Jersey Department of Human Services' ("State" or "DHS") response to the Department of Health and Human Services Office of the Inspector General's ("OIG") draft audit report A-02-13-01035 entitled *New Jersey Claimed Excessive Medicaid Disproportionate Share Hospital Payments for Five County-Operated Psychiatric Facilities*. The report recommends that the State refund \$11,855,610 in Federal Financial Participation (FFP) for overpayments made to five county-operated psychiatric hospitals and to establish procedures for reconciling and adjusting the hospital expenditures to ensure that they do not exceed hospital specific limits.

DHS does not concur with the recommendation that the State must refund \$11,855,610 to the federal government. In addition DHS has implemented procedures to ensure that the amounts claimed for reimbursement for all psychiatric hospitals are allowable in accordance with Federal regulations and guidelines.

In accordance with Attachment 4.19A of the New Jersey Medicaid State Plan (enclosed), a retrospective claiming process is used for the disproportionate share hospital (DSH) program for government psychiatric hospitals. Claims for the current billing periods reflect estimates based primarily on historical cost and statistical data. These estimates are adjusted subsequent to the billing period once all of the costs and offsetting payments from various revenue sources including Medicare and Medicaid are finalized and reviewed. At the time of the audit these processes were not yet complete. During the audit, DHS advised OIG of this process. As a result, the amount recommended for refund may not be correct.

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DHS strongly believes that amounts should not be refunded for the audit periods even if the amounts contained in the reports were accurate. The State and counties incur and claim more in the amount of allowable uncompensated costs in providing psychiatric services to the uninsured and Medicaid eligible populations than they receive under the DSH limits imposed for institutions for mental disease (IMDs). Between CYs 2010 and 2011, the State and county psychiatric facilities claimed \$969,140,632 in DSH payments but only received FFP on \$714,740,924 as a result of the cap on DSH payments to IMDs. The \$254,399,708 in payments that did not receive FFP is greater than OIG's finding of \$23,711,219 as reported in the draft audit report.

In regards to the recommendation that procedures be established to ensure that hospital specific DSH limits are not exceeded, the State has already implemented sound procedures to determine allowable cost-based payment claims for county psychiatric hospitals. The State monitors its DSH revenue forecasts on a monthly basis to ensure that it does not claim excess DSH payments to county-operated psychiatric hospitals. Also, independent DSH audits governed by 42 CFR 447.299(c)-(e) determine which hospitals received DSH payments that exceeded their facility-specific limits. Claim adjustments will be made as necessary. DHS continuously reviews and refines its policies and procedures with respect to monitoring hospitals' facility-specific DSH limits.

Should you have any questions, please contact myself or Richard Hurd at 609-588-2550 or by email at [Richard.H.Hurd@dhs.state.nj.us](mailto:Richard.H.Hurd@dhs.state.nj.us).

Sincerely,

Valerie Harr  
Director

Enclosures

cc: J. Velez  
C. Bailey  
R. Hurd

**STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT  
Reimbursement for Governmental Psychiatric Hospitals and Governmental Acute  
Care Hospitals for the Developmentally Disabled Patients  
Disproportionate Share Hospital Adjustment**

With the exception of high disproportionate share hospitals in State Fiscal Year (SFY) 1995, the payment adjustment will not exceed the cost of services furnished to Medicaid patients, less the amount paid under the non-DSH payment method under the New Jersey State Plan, added to the cost of services provided to patients who are uninsured for services provided during the SFY, less the amount of payments made by those patients. Thus, the payment adjustment to these providers is the limit established by Section 13621 (g) (1) (A) of the Omnibus Budget Reconciliation Act of 1993 (OBRA 93). A retrospective system will be used to determine the adjustment amounts. Prior year actual patient care related costs and payments from the period with the most current data available will be inflated to the estimated billing period levels\*. The result of this calculation, which reflects an annual figure, will be divided and paid in equal amounts on a quarterly basis. Subsequent to the billing period, the estimated amounts will be adjusted (upward or downward) based upon the actual costs and payments applicable to the billing period. In unusual circumstances, where actual payments can not be matched to the applicable service cost, a reasonable estimate of the payment amount will be made.

94-20-MA (NJ)

**OFFICIAL**

TN 94-20 Approval Date AUG 20 1994  
Supersedes TN 88-29C Effective Date JUL 16 1994