

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**NEW JERSEY CLAIMED FEDERAL
MEDICAID REIMBURSEMENT FOR
CHILDREN'S PARTIAL HOSPITALIZATION
SERVICES THAT DID NOT MEET
FEDERAL AND STATE REQUIREMENTS**

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A-02-16-01008

Office of Inspector General

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Report in Brief

Date: March 2018

Report No. A-02-16-01008

U.S. DEPARTMENT OF HEALTH & HUMAN SERVICES
OFFICE OF INSPECTOR GENERAL



Why OIG Did This Review

Children's partial hospitalization is an outpatient treatment program provided in a hospital-based setting for youth and young adults and intended to minimize the need for inpatient hospitalization.

A prior review of New Jersey's claims for Medicaid adult partial hospitalization services identified a significant number of claims improperly submitted for Federal Medicaid reimbursement. This review covers similar services provided to children.

Federal law requires outpatient hospital services to be provided by a facility licensed as a hospital. Claims must be supported by documentation showing (1) that specific services were provided and properly documented, (2) staff-to-client ratio requirements were met for group therapy services, (3) staff met qualification requirements, and (4) weekly progress notes were maintained.

Our objective was to determine whether New Jersey claimed Federal Medicaid reimbursement for children's partial hospitalization services that complied with Federal and State requirements.

How OIG Did This Review

Our review covered \$59.9 million (Federal share) for 392,985 children's partial hospitalization claims paid during 2011 through 2014. We reviewed and analyzed a random sample of 100 of these claims.

New Jersey Claimed Federal Medicaid Reimbursement for Children's Partial Hospitalization Services That Did Not Meet Federal and State Requirements

What OIG Found

New Jersey did not comply with Federal and State requirements for all 100 of the claims in our sample, including 94 that contained more than 1 deficiency.

For all 100 claims, we found that services provided were not documented or adequately supported. For 81 claims, services were provided at a facility not licensed by New Jersey's hospital licensing agency to provide outpatient hospital services. For 48 claims, providers did not meet the minimum staff-to-client ratio requirement for group therapy services. For 16 claims, services were provided by staff that did not meet qualification requirements. Finally, for 10 claims weekly progress notes were not maintained. As a result, the quality of care provided to the children at these providers might have been inadequate.

The deficiencies occurred because New Jersey did not ensure that children's partial hospitalization services were provided by appropriately licensed hospitals. Also, New Jersey did not adequately monitor the children's partial hospitalization program to ensure that providers complied with Federal and State requirements.

What OIG Recommends and New Jersey's Comments

We recommend that New Jersey refund \$54.7 million to the Federal Government. We also recommend that New Jersey's Medicaid agency work with the State's hospital licensing agency to ensure that children's partial hospitalization services are provided by appropriately licensed hospitals. We also make other procedural recommendations.

In written comments on our draft report, New Jersey disagreed with our recommendations. However, it described changes made to its provider requirements that may address some of our recommendations.

After reviewing New Jersey's comments, we revised our determination for one claim. The State agency did not provide any additional support for the allowability of the remaining claims; therefore, we maintain that our remaining findings and recommendations are valid.

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INTRODUCTION

WHY WE DID THIS REVIEW

During a prior review of New Jersey’s claims for Medicaid adult partial hospitalization services, we identified a significant number of claims improperly submitted for Federal Medicaid reimbursement.¹ On the basis of these results, we decided to review similar services provided to children.

OBJECTIVE

Our objective was to determine whether the New Jersey Department of Human Services (State agency) claimed Federal Medicaid reimbursement for children’s partial hospitalization services that complied with Federal and State requirements.

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 the Medicaid program. At the Federal level, the Centers for Medicare & Medicaid Services (CMS) administers the Medicaid 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 Jersey’s Medicaid Children’s Partial Hospitalization Services Program

In New Jersey, the State agency administers the Medicaid program. Children’s partial hospitalization² is an intensive, highly structured outpatient treatment program provided in a hospital-based setting that provides services designed primarily for youth and young adults under the age of 21 and intended to minimize the need for hospitalization.³ For children’s partial hospitalization services to be eligible for Medicaid reimbursement, beneficiaries must

¹ *New Jersey Claimed Medicaid Reimbursement for Adult Partial Hospitalization Services That Did Not Comply With Federal and State Requirements (A-02-14-01015, issued April 19, 2017).*

² Although New Jersey regulations define these services as “youth and young adult partial hospital” services, we refer to them as “children’s partial hospitalization” in this report.

³ New Jersey Administrative Code (NJAC) 10:52-1.2. Children’s partial hospitalization services are provided to individuals under age 18, and those individuals at or over the age of 18 and under the age of 21 who had been receiving psychiatric services before their 18th birthday from the New Jersey Department of Children and Families (DCF), the DCF’s Division of Child Behavioral Health Services, or both (NJAC 10:52-2.10(e)).

receive 2 to 5 hours (units) of services per day.⁴ Services include group therapy, counseling, psychiatric services, and recreational therapy.⁵

Federal and State Requirements Relating to Children’s Partial Hospitalization Services

To qualify for Medicaid reimbursement, outpatient hospital services must be provided by an institution licensed as a hospital by an officially designated authority for State standard-setting,⁶ which in New Jersey is the Department of Health (DOH). CMS’s *State Medicaid Manual* (the Manual) establishes guidelines for outpatient psychiatric services (which include partial hospitalization services), including individualized treatment planning and documentation.⁷

Principles and standards for determining allowable costs incurred by State and local governments under Federal awards are established by 2 CFR part 225 (Office of Management and Budget (OMB) Circular A-87, *Cost Principles for State, Local, and Indian Tribal Governments*). To be allowable, costs must be authorized or not prohibited by State or local laws and regulations (2 CFR part 225,⁸ App. A, C.1.c).

Claims for Federal Medicaid reimbursement must be supported by adequate documentation to ensure that all applicable Federal requirements have been met (the Manual § 2497). State law requires providers to document the nature and extent of each service provided and any other information that the State agency may require by regulation in order to be reimbursed.⁹ State regulations require (1) supporting documentation for each service, (2) limitations for group therapy, (3) certain services provided directly by or under the direction of a clinically licensed mental health professional, and (4) weekly progress notes.

⁴ Children’s partial hospitalization is billed on an hourly basis, which is \$73 per hour (unit) (NJAC 10:52-4.3(b)(9)(i)(1)). A beneficiary may receive more than 5 hours of services; however, hours in excess of 5 may not be billed by the provider or reimbursed by the State.

⁵ NJAC 10:52-2.10(a).

⁶ 42 CFR § 440.20(a).

⁷ The State includes children’s partial hospitalization as an outpatient psychiatric service (NJAC § 10:52-1.17(a)). In the Manual, section 4221(A), CMS explains the need for specific documentation guidelines for outpatient psychiatric services. According to CMS, there have been “instances of billing for services without sufficient documentation to establish that the services were clearly related to the patient’s psychiatric condition. With the ongoing effort to encourage furnishing psychiatric treatment in the least restrictive setting possible, there is an increasing need for coverage guidelines specifically directed at outpatient programs.”

⁸ On December 26, 2013, OMB consolidated and streamlined its guidance, which is now located at 2 CFR part 200. The Department of Health and Human Services (HHS) has codified the guidance in regulations found at 45 CFR part 75, which became effective on December 26, 2014.

⁹ N.J. Rev. Stat. § 30:4D-12.

For details on Federal and State requirements relating to children’s partial hospitalization services, see Appendix A.

HOW WE CONDUCTED THIS REVIEW

During calendar years (CYs) 2011 through 2014, the State agency claimed Federal Medicaid reimbursement totaling \$114,464,094 (\$59,890,450 Federal share) for 392,985 children’s partial hospitalization services claims with payments of greater than or equal to \$50. We reviewed a simple random sample of 100 of these claims.¹⁰ Specifically, we reviewed documentation to determine whether children’s partial hospitalization services were provided in accordance with Federal and State requirements.

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 contains the details of our audit scope and methodology, Appendix C contains our statistical sampling methodology, and Appendix D contains our sample results and estimates.

FINDINGS

All 100 of the State agency’s claims for Federal Medicaid reimbursement for children’s partial hospitalization services that we reviewed did not comply with Federal and State requirements, and 94 contained more than 1 deficiency. Table 1 summarizes the deficiencies noted and the number of claims that contained each type of deficiency.

Table 1: Summary of Deficiencies in Sampled Claims

Deficiency	Number of Unallowable Claims ^a
Services not documented or supported	100
Services not provided by a licensed hospital	81
Group therapy limitation requirement not met	48
Services provided by unqualified staff	16
Progress notes not documented	10

^a The total exceeds 100 because 94 claims contained more than 1 deficiency.

¹⁰ The sampled claims were associated with 17 providers. Throughout New Jersey, 27 Medicaid providers perform children’s partial hospitalization services.

The deficiencies occurred because the State agency did not (1) work with DOH to ensure that children’s partial hospitalization services were provided by appropriately licensed hospitals and (2) adequately monitor the children’s partial hospitalization program to ensure that providers complied with Federal and State requirements.

DOH officials stated that DOH has issued a license to only one children’s partial hospitalization program in New Jersey. However, the officials stated that DOH did not have licensure standards for these services. Further, the State agency’s reviews of the providers included in our sample did not adequately test certain requirements for compliance, such as whether services provided were included in the specific therapies and activities identified in the children’s plans of care, limitations for group therapy were met, and weekly progress notes were documented. As a result, the quality of care provided to the children at these providers may have been inadequate.

On the basis of our sample results, we estimated that the State agency improperly claimed at least \$54,732,002 in Federal Medicaid reimbursement for children’s partial hospitalization services that did not meet Federal and State requirements.¹¹

SERVICES NOT DOCUMENTED OR SUPPORTED

A child’s plan of care must include a written description of treatment objectives, including the treatment regimen and specific medical or remedial services, therapies, and activities used to meet the objectives. The plan of care must also include a projected schedule for service delivery that includes the frequency and duration of each type of planned therapeutic session or encounter.¹² For services provided that are not specifically included in the child’s plan of care, the provider should have documentation to explain how the services being billed relate to the treatment regimen and objectives contained in the child’s plan of care.¹³

Providers are required to prepare records to fully disclose the nature and extent of each service provided. Services must amount to 2 to 5 hours (units) per day, exclusive of meals.¹⁴ To satisfy these requirements, at a minimum, providers must document (1) specific services provided, (2) the date and time services were provided, (3) the duration of services, (4) the practitioner’s signature, (5) the setting in which services were provided, and (6) any significant deviation from

¹¹ To be conservative, we recommend recovery of overpayments at the lower limit of a two-sided 90-percent confidence interval. Lower limits calculated in this manner will be less than the actual overpayment total 95 percent of the time.

¹² The Manual § 4221(C); N.J. Rev. Stat. § 30:4D-12(d); and New Jersey Administrative Code (NJAC) 10:52-1.17(d).

¹³ The Manual § 4221(D).

¹⁴ NJAC 10:52-4.3(b)9i; NJAC 10:52-2.10(c)1.

the treatment described in the child’s plan of care.¹⁵ Student education, including preparation of school-assigned classwork or homework, is not an included service.¹⁶

For all 100 claims¹⁷ in our sample, services were not adequately documented or supported.¹⁸ Specifically:

- For 97 claims, 1 or more services provided on the sampled date were not included in the child’s plan of care.¹⁹ The claims and related documentation did not include detailed explanations of how these services related to the treatment regimen and objectives of the child’s plan of care or explain the deviation from the treatment described in the plan of care. (See Figure 1 for examples.)
- For 35 claims, required elements (e.g., time, duration of services, and practitioner’s signature) were not documented.
- For 13 claims, the units of service billed exceeded the units of service supported.
- For three claims, no services were documented on the sampled date.
- For three claims, services provided were unallowable. The provider billed for services that included helping a child with their homework and providing snacks.
- For one claim, the services did not meet the minimum requirements (2 hours) for billing services.

Figure 1: Examples of Services Not Included in Children’s Plans of Care

Services not included in children’s plans of care and for which there was no detailed explanation of how they related to the children’s treatment regimen included:

- afternoon stretching,
- playing Hangman,
- playing Uno (card game), and
- yoga.

¹⁵ The Manual § 4221(D); N.J. Rev. Stat § 30:4D-12(d); NJAC 10:49-9.8; and NJAC 10:52-1.17(e) 1.

¹⁶ NJAC 10:52-2.10(f)1.

¹⁷ For these claims, if applicable, we allowed the portion of the claim for services that were documented or supported.

¹⁸ The total number of claims in the bulleted list exceeds 100 because several claims contained more than 1 of this type of deficiency.

¹⁹ Services related to these 97 claims were also not included in the beneficiary’s projected schedule of services.

SERVICES NOT PROVIDED BY A LICENSED HOSPITAL

Medicaid children’s partial hospitalization services are claimed as outpatient hospital services, which are defined as services provided by an institution licensed or formally approved as a hospital by the State’s authority for standard-setting (42 CFR § 440.20 (a)).²⁰ Figure 2 describes Medicaid outpatient hospital standards detailed in 42 CFR part 482 and 42 CFR § 440.20 (a). In New Jersey, DOH is responsible for licensing hospitals.

Of the 100 sample claims associated with 17 providers,²¹ 81 claims were for services not provided by institutions licensed by DOH as hospitals. Specifically:

- For 51 claims associated with 10 providers, services were not provided by institutions licensed by DOH as hospitals. Specifically, they were licensed by the State agency’s DCF as a partial care clinic. For example, some services were provided at clinics located in small homes or office spaces.
- For 30 claims associated with 3 providers, services were not provided by institutions licensed by DOH as hospitals or DCF.

Figure 2: Medicaid Outpatient Hospital Standards

Medicaid outpatient hospital services must be integrated with inpatient services. And an outpatient hospital service provider must meet several conditions of participation (e.g., must have performance improvement policies, food service, infection control, and building safety standards). New Jersey’s standard-setting agency must also license or formally approve the provider as a hospital.

In addition, for 12 of the 100 claims in our sample (associated with 4 providers), services were provided inside a hospital licensed by DOH. DOH does not license partial hospitalization facilities or programs.²² However, according to the State agency, partial hospitalization services provided inside a licensed hospital are authorized by the hospital’s license. Thus, there appears to have been a conflict between the State agency and DOH regarding whether partial hospitalization services required a specific license from DOH. Because of this conflict, we are

²⁰ New Jersey also defines children’s partial hospitalization services as those provided in a hospital-based setting, and the requirements regarding children’s partial hospitalization are found in New Jersey’s *Hospital Services Manual*, which is codified in State regulations (NJAC § 10:52).

²¹ One provider had two locations—one with a DCF license and one inside a hospital.

²² A provider must possess a valid license that specifies the kinds of health care services that it is authorized to provide (N.J. Rev. Stat. § 26:2H-12.a.(1)). In an email dated July 8, 2015, DOH stated: “In general, DOH Licensing Program does not license partial hospitalization facilities/programs. They are licensed by Mental Behavioral Health in DHS [Department of Human Services]. However, several years ago we licensed a children’s partial hospitalization program. . . . We recently had another request to do this and we said no since we do not have licensing standards for partial hospitalization programs.” For the licensed provider referenced in DOH’s email, we accepted all seven claims associated with the provider. These 7 claims for this provider are not among the 12 sample claims for which a conflict existed.

not recommending disallowance of these 12 claims; however, we are recommending that the State agency resolve the conflict with DOH.

GROUP THERAPY LIMITATION REQUIREMENT NOT MET

State regulations define children's group outpatient hospital psychiatric services as group therapy services provided in a group of no more than eight individuals.²³

For 48 of the 100 claims in our sample, group therapy services were not provided in accordance with the requirement.²⁴ Specifically:

- For 39 claims, providers did not provide documentation to support that the staff-to-client limitation requirement for group therapy services was met.
- For nine claims, documentation showed the provider exceeded the staff-to-client ratio limitation requirement for group therapy services.²⁵

SERVICES PROVIDED BY UNQUALIFIED STAFF

Group therapy services are therapeutic interventions provided directly by or under the direction of a clinically licensed mental health professional. A clinically licensed mental health professional has a master's or doctoral degree from an accredited university in psychiatry, psychology, social work, psychiatric nursing, or psychiatric rehabilitation counseling and is licensed by New Jersey.²⁶

For 16 of the 100 claims in our sample, the staff did not meet qualification requirements. Specifically, group therapy was provided by individuals with bachelor's degrees in such areas as American studies, communication, political science, and teaching.²⁷

²³ NJAC 10:52-1.2.

²⁴ All of the children's partial hospitalization claims with supporting documentation included group therapy services.

²⁵ We allowed a variance of 2 clients above the limit (i.e., we allowed up to 10 clients).

²⁶ NJAC 10:52-1.2.

²⁷ For these claims, the provider did not provide documentation to support that the services were provided under the direction of a clinically licensed mental health professional.

PROGRESS NOTES NOT DOCUMENTED

Providers must document substantive information—including progress notes, clinical progress, complications, and any other information important to the clinical picture—in the patient’s medical record at least once a week.²⁸

For 10 of the 100 claims in our sample, a weekly progress note was not documented.

RECOMMENDATIONS

We recommend that the State agency:

- refund \$54,732,002 to the Federal Government;
- work with DOH to ensure children’s partial hospitalization services are provided by appropriately licensed hospitals;
- issue guidance to providers on Federal and State requirements for claiming Medicaid reimbursement for children’s partial hospitalization services;
- work with DOH to ensure that licensure standards, as well as any other State requirements for providing Medicaid-covered partial hospitalization services, promote high-quality care and support efficiency and integrity in service delivery;
- improve its monitoring of providers of children’s partial hospitalization services and adequately test specific services to ensure the providers comply with Federal and State requirements; and
- work with CMS to identify paid claims outside of our audit period for services that were not provided by a facility licensed as a hospital.

²⁸ The Manual § 4221 D; N.J. Stat. § 30:4D-12(d); and NJAC 10:52-1.17(e)2.

STATE AGENCY COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE

In written comments on our draft report, the State agency disagreed with our recommendations. However, it described changes made to its provider requirements that may address some of our recommendations. The State agency also provided responses to most of our findings. It did not address our finding related to claims for services not documented or supported.

After reviewing the State agency's comments, we revised our determination for one claim for which we identified a daily progress note.²⁹ The State agency did not provide any additional support for the allowability of the remaining claims; therefore, we maintain that our remaining findings and recommendations are valid. The State agency's comments are included in their entirety as Appendix E.

SERVICES NOT PROVIDED BY A LICENSED HOSPITAL

State Agency Comments

The State agency stated that hospitals in New Jersey, including hospitals' outpatient departments, are licensed by DOH. The State agency stated that we incorrectly concluded that DOH did not license 10 provider locations based on a DOH representative's statement that it did not have standards to apply for outpatient mental health services. The State agency acknowledged that DOH is reviewing licensing rules so that it may create a single license for behavioral and physical health. Finally, regarding the 30 claims associated with 3 providers for which services were not provided by institutions licensed by DOH as a hospital or by DCF as a children's mental health program, the State agency stated that it will require providers to present an active license during clinical reviews.

Office of Inspector General Response

To qualify for Medicaid reimbursement, outpatient hospital services such as children's partial hospitalization must be provided by an institution licensed as a hospital by DOH. None of the services identified in our finding were provided in hospital facilities. Rather, as we describe on page 6 of the report, we identified some services provided at partial care clinics located in small homes or office spaces licensed by DCF. In fact, only *one* of the facilities associated with our sample claims was licensed as a hospital facility.

Regarding the DOH representative's statement that DOH did not have standards to apply for outpatient mental health services, we note that this statement was not the basis of our finding. Rather, it helped identify the root cause associated with it—that DOH did not license partial hospitalization programs because it did not have licensing standards. Further, DOH stated that another agency was responsible for licensing these programs.

²⁹ We did not adjust our recommended disallowance because the claim had additional deficiencies.

GROUP THERAPY LIMITATION REQUIREMENT NOT MET

State Agency Comments

The State agency stated that we applied a standard for group therapy that applies to private practitioners or group therapy services billed as a separate service outside of a hospital or clinic setting. The State agency also stated the staff-to-client ratio standards for groups in partial hospitalization may not exceed 1:10.

Office of Inspector General Response

State regulations (NJAC 10:52-1.2) define “group outpatient hospital psychiatric services for [children]” to be “an outpatient therapeutic intervention for a youth or young adult with similar behaviors or functionality provided in a *group of no more than eight individuals*” (emphasis added).³⁰ Regardless, as we stated in the report, we allowed a variance of two clients for group therapy services. (See footnote 25 on page 7.) Therefore, our finding relates to services provided in a group that did not meet a minimum staff-to-client ratio of 1:10.

SERVICES PROVIDED BY UNQUALIFIED STAFF

State Agency Comments

The State agency stated that group services billed under the partial hospital program may be provided by a mental health services worker, as described in NJAC 10:52-2.10A. The regulation states that a mental health services worker shall possess a bachelor’s degree in a human service field or an associate’s degree with experience requirements. According to the State agency, a degree in American studies “may meet the qualifications of an associate’s degree with the required experience.” For cases in which this standard was not met, the State agency stated that it will begin to record findings and enter provider-specific information into a database to determine if there are areas requiring remediation.

Office of Inspector General Response

The regulation cited by the State agency (NJAC 10:52-2.10A) is specific to prevocational services and therapeutic work activity. None of the children in our sample received these types of services. Group therapy, in contrast, must be provided by or under the direction of a clinically licensed professional, as described in NJAC 10:52-1.2.

³⁰ The only State regulations that allow a 1-to-10 ratio relate to prevocational services (NJAC 10:52-2.10A (g)(5)) and adult partial hospital services (NJAC 10:52A-1.2).

PROGRESS NOTES NOT DOCUMENTED

State Agency Comments

The State agency stated that weekly progress notes are a requirement of its Division of Mental Health and Addiction Services—not its licensing division. Further, the State agency stated that, if a program provides a summary of a beneficiary’s therapies or activities, significant events, or clinical progress in a daily note, it concurrently meets the requirement for a weekly note. Finally, the State agency contended that providers will no longer use daily notes to meet this requirement.

Office of Inspector General Response

As we described in the report, providers must document substantive information—including progress notes, clinical progress, complications, and any other information important to the clinical picture—in the patient’s medical record at least once a week.

We note that, based on the State agency’s comments, we revised our determination for 1 of the 11 claims identified in our draft report as not having a weekly progress note. We therefore accepted this claim and revised the report accordingly. We did not adjust our recommended disallowance because the claim had additional deficiencies. The remaining 10 claims did not have what amounted to a weekly progress or a daily progress note for at least 1 day during a given week.

OTHER MATTERS: BACKGROUND CHECKS

Although New Jersey requires individuals who provide services to children in daycare and preschool programs to undergo detailed background checks, it does not require similar checks for individuals who provide services to children in the partial hospitalization program. We noted that most children’s partial hospitalization service providers performed background checks based on their affiliated hospital’s internal policies, although the types of checks varied. For 94 of the 100 claims in our sample, the staff that provided the services underwent a background check,³¹ but for 6 claims the staff did not, thereby putting the health and safety of children at these providers at risk. We encourage New Jersey to require background checks for all individuals who provide children’s partial hospitalization services.

³¹ We note that the 94 background checks were inconsistent across the various providers. For example, some providers ran only a county-wide background check, while others performed more detailed background checks.

APPENDIX A: FEDERAL AND STATE REQUIREMENTS RELATED TO CHILDREN'S PARTIAL HOSPITALIZATION SERVICES

Section 1905(a)(2) of the Social Security Act (the Act) authorizes outpatient hospital services. Federal regulations (42 CFR § 440.20) define outpatient hospital services, in relevant part, as services that are provided by an institution that is licensed or formally approved as a hospital by an officially designated authority for State standard-setting. In New Jersey, the Health Care Facilities Planning Act (N.J. Stat. § 26:2H) establishes DOH as the authority responsible for licensing hospitals.

CMS's State Medicaid Manual, section 4221, establishes guidelines for outpatient programs of psychiatric treatment, including outpatient hospital services. The Manual states that the following guidelines help ensure appropriate use of outpatient psychiatric programs:

- The provider should perform an intake assessment for each beneficiary being considered for entry.
- The provider should develop an individualized plan of care that describes the treatment regimen and the projected schedule for service delivery, including the frequency and duration of each type of planned session or encounter.
- The provider should prepare written documentation that supports each medical or remedial therapy, service, activity, or session that is billed. At a minimum, the documentation should include (1) the specific service, (2) the date and actual time the service was provided, (3) who provided the service, (4) the setting in which the service was provided, (5) the amount of time it took to deliver the service, (6) the relationship of the service to the treatment regimen described in the plan of care, and (7) updates describing the patient's progress. For services that are not specifically in the beneficiary's treatment regimen, the provider should prepare a detailed explanation of how the services being billed relate to the treatment regimen and objectives in the beneficiary's plan of care.

2 CFR part 225 (OMB Circular A-87, *Cost Principles for State, Local, and Indian Tribal Governments*) establishes principles and standards for determining allowable costs incurred by State and local governments under Federal awards. It further provides that, to be allowable, costs must be authorized or not prohibited by State or local laws or regulations (App. A, C.1.c.). OMB Circular No. A-87 was relocated to 2 CFR part 225 and made applicable by 45 CFR § 92.22(b). On December 26, 2013, OMB consolidated and streamlined its guidance, which is now located at 2 CFR part 200. HHS has codified the guidance in regulations found at 45 CFR part 75, which became effective on December 26, 2014.

Section 1902(a)(27) of the Act and Federal regulations (42 CFR § 431.107) require States to ensure providers keep medical records necessary to fully disclose the extent of services provided to beneficiaries. New Jersey law (N.J. Rev. Stat. § 30:4D-12) and regulations

(NJAC 10:49-9.8) require providers to maintain individual records necessary to fully disclose the nature and extent of services provided. New Jersey law (N.J. Rev. Stat. § 30:4D-12) also requires providers to maintain any other information that the State agency may require by regulations in order to be reimbursed.

State agency regulations require providers to maintain specified documentation to ensure appropriate use of children's partial hospitalization services. NJAC 10:52-1.17 states that providers must prepare an intake assessment and an individualized plan of care. The plan of care must include the treatment regimen—the specific medical and remedial services, therapies, and activities and the projected schedule for service delivery, including the frequency and duration of each type of planned session or encounter. The provider also must prepare documentation that supports each service, including, at a minimum: (1) the specific service, (2) the date and actual time the service was provided, (3) who provided the service, (4) the setting in which the service was provided, (5) the amount of time it took to deliver the service, and (6) significant deviations from the treatment described in the plan of care.

NJAC 10:52-1.2 defines group outpatient hospital psychiatric services for youth and young adults as outpatient therapeutic intervention for a youth or young adult with similar behaviors or functionality provided in a group of no more than eight individuals, in which interventions are provided directly by or under the direction of a clinically licensed mental health professional. A clinically licensed mental health professional has a master's or doctoral degree from an accredited university in psychiatry, psychology, social work, psychiatric nursing, or psychiatric rehabilitation counseling and is licensed by New Jersey.

NJAC 10:52-4.3(b)9i requires for children's partial hospitalization services that beneficiaries receive no less than 2 hours of services per day and that no more than 5 hours of services per day be billed. NJAC 10:52-2.10(c)1 states partial hospitalization services are provided to nonresidential patients a minimum of 2 hours and maximum of 5 hours of active programming (exclusive of meals).

NJAC 10:52-1.17(e)2 requires clinical progress notes, complications, and treatment that affect the prognosis or progress to be documented in the child's medical record at least once a week.

NJAC 10:52-2.10(e) establishes that beneficiaries who had been receiving services from DCF before their 18th birthday can continue services under the supervision of DCF until their 21st birthday if they meet certain criteria.

NJAC 10:52-2.10(f) states that children's partial hospitalization services shall not include student education, including preparation of school-assigned classwork or homework, or incentive programs, including but not limited to nontherapeutic token economies³² and subcontract work responsibilities.

³² Nontherapeutic token economies are learning-reinforcement strategies that are not medically necessary and, therefore, not therapeutic.

APPENDIX B: AUDIT SCOPE AND METHODOLOGY

SCOPE

Our review covered 392,985 children's partial hospitalization claim lines, totaling \$114,464,094 (\$59,890,450 Federal share), submitted by 27 children's partial hospitalization providers in New Jersey during CYs 2011 through 2014. (In this report, we refer to these lines as claims.)

Our review allowed us to establish reasonable assurance of the authenticity and accuracy of the data obtained from the Medicaid Management Information System (MMIS) file for our audit period. We also established reasonable assurance of the completeness of the data by reconciling the claims data in the MMIS to the State's claim for reimbursement on the CMS-64, Quarterly Medicaid Statement of Expenditures for the Medicaid Program (CMS-64).

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

We performed fieldwork at the State agency's offices in Trenton, New Jersey, and at children's partial hospitalization providers throughout New Jersey from March through October 2016.

METHODOLOGY

To accomplish our objective, we:

- reviewed applicable Federal and State requirements;
- held discussions with State agency officials to gain an understanding of New Jersey's children's partial hospitalization program;
- obtained an electronic file that contained 401,868 Medicaid children's partial hospitalization claims submitted by 27 providers in New Jersey during our audit period;
- excluded 847 claims associated with service dates on or before March 31, 2010, and 3 claims that had a Medicaid paid amount less than \$50, which resulted in 401,018 Medicaid claims totaling \$116,688,614 (\$61,034,640 Federal share);
- reconciled the partial hospitalization services claimed for Federal reimbursement by the State agency on the CMS-64 for our audit period with the data obtained from the MMIS file;
- excluded 8,033 claims totaling \$2,224,520 (\$1,144,190 Federal Share) for beneficiaries who were 18 through 20 years of age and were included in the sampling frame for our audit entitled *New Jersey Claimed Medicaid Reimbursement for Adult Partial*

Hospitalization Services That Did Not Comply with Federal and State Requirements (A-02-14-01015);

- created a sampling frame of 392,985 claims, totaling \$114,464,094 (\$59,890,450 Federal share);
- selected a simple random sample of 100 claims from our sampling frame of 392,985 claims, and for each of the 100 claims, obtained and reviewed beneficiary clinical records to determine if claims complied with Federal and State requirements;
- discussed the licensure of children’s partial hospitalization providers with officials from DOH, DCF, and the State agency;
- estimated the unallowable Federal Medicaid reimbursement paid in the sampling frame of 392,985 claims; and
- discussed our results 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 C: STATISTICAL SAMPLING METHODOLOGY

TARGET POPULATION

The population was children's partial hospitalization claims submitted by providers in New Jersey during CYs 2011 through 2014 that the State agency claimed for Federal Medicaid reimbursement.

SAMPLING FRAME

The sampling frame was an Access file containing 392,985 claims for children's partial hospitalization services with payments greater than or equal to \$50 submitted by 27 providers in New Jersey during our audit period. The total Medicaid reimbursement for the 392,985 claims was \$114,464,094 (\$59,890,450 Federal share). We extracted the Medicaid claims from the State agency's Medicaid payment files provided to us by staff of the State agency's MMIS fiscal agent.

SAMPLE UNIT

The sample unit was a Medicaid children's partial hospitalization claim.

SAMPLE DESIGN

We used a simple random sample.

SAMPLE SIZE

We selected a sample of 100 claims.

SOURCE OF RANDOM NUMBERS

We generated the random numbers with the Office of Inspector General, Office of Audit Services (OAS), statistical software.

METHOD FOR SELECTING SAMPLE ITEMS

We numbered the sample units in the sampling frame. After generating 100 random numbers within our sampling frame, we selected the corresponding frame items.³³

³³ We consecutively numbered a file of 401,018 claims. The file contained our sampling frame of 392,985 claims and an additional 8,033 claims that were covered in a previous OAS audit. Our sample and statistical estimate do not extend beyond our sampling frame.

ESTIMATION METHODOLOGY

We used the OAS statistical software to analyze the sample results. We estimated the overpayment associated with the unallowable claims at the lower limit of the two-sided 90-percent confidence interval.

APPENDIX D: SAMPLE RESULTS AND ESTIMATES

Table 2: Sample Details and Results

Claims in Frame	Value of Frame (Federal Share)	Sample Size	Value of Sample (Federal Share)	Number of Unallowable Claims	Value of Unallowable Claims (Federal Share)
392,985	\$59,890,450	100	\$15,202	100	\$14,611 ³⁴

Table 3: Estimated Unallowable Costs (Federal Share)
(Limits Calculated for a 90-Percent Confidence Interval)

Point estimate	\$57,418,842
Lower limit	\$54,732,002
Upper limit	\$59,890,450 ³⁵

³⁴ Some claims were only partially allowable.

³⁵ The upper limit of the confidence interval was set at the total Federal share of the sampling frame.

APPENDIX E: STATE AGENCY COMMENTS



State of New Jersey
DEPARTMENT OF HUMAN SERVICES
PO Box 700
TRENTON, NJ 08625-0700
December 19, 2017

CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

ELIZABETH CONNOLLY
Commissioner

Brenda M. Tierney
Regional Inspector General for Audit Services
Department of Health and Human Services
Office on Inspector General
Office of Audit Services, Region II
Jacob K. Javits Federal Building
26 Federal Plaza, Room 3900
New York, NY 10278

RE: Draft Audit Report No. A-02-16-01008

Dear Ms. Tierney:

The New Jersey Department of Human Services (DHS/The State) is in receipt of the Office of Inspector General's ("OIG") draft audit report, *New Jersey Claimed Medicaid Reimbursement for Children's Partial Hospitalization Services That Did Not Comply With Federal and State Requirements*, A-02-16-01008 ("Draft Audit Report"). Staff has reviewed the findings and recommendation; their assessments are included in the Department's formal response. The Department disagrees with the Auditor's recommendations, in whole:

- **SAMPLE CLAIMS WERE PROVIDED AT LICENSED LOCATIONS**

New Jersey's hospitals, including their outpatient departments, are licensed by the State's Department of Health. The Office of Inspector General's report indicated that a representative of the Department of Health (DOH) reported that it did not have standards to apply for outpatient mental health, which led to this erred conclusion. The DOH hospital license meets the Federal requirement and was applied toward several conditions of participation, including infection control and building safety standards. The concurrent licensing by the Department of Children and Families (DCF) ensured that standards addressing staffing and mental health services were applied. Since October 2017, the Division of Mental Health and Addiction Services has been incorporated into the Department of Health, including the Office of

Licensing. DOH currently is reviewing licensing rules to create a single license for behavioral health and physical health. To address the 30 claims from 3 providers who were not licensed by DOH as hospitals or by DCF as a children's mental health program, DMAHS reviewers now will require presentation of an active license in each clinical review.

- **GROUP THERAPY REQUIREMENTS WERE MET**

The reviewers applied a standard for group therapy (limit of 8) that applies to private practitioners or group therapy services provided outside of a partial hospital or clinic setting that is billed as a separate service. Didactic and skill building groups are a major component of partial hospitalization and may not exceed a 1:10 staff to client ratio.

- **SERVICES WERE PROVIDED BY QUALIFIED STAFF**

Groups billed under partial hospitals may be provided by a mental health services worker (described in NJAC 10:52-2.10A) who shall have the primary responsibility for service coordination or provision or arrangement of services needed. This person shall possess a bachelor's degree in a human service field, or an associate's degree with experience requirements. A degree in American studies may meet the qualifications of an associate's degree with the required experience. For cases in which this standard was not met, DMAHS will begin recording findings and entering provider specific information into a data base to determine if there are areas requiring remediation.

- **PROGRESS NOTES WERE DOCUMENTED**

The weekly progress note is a Division of Mental Health and Addiction Services' requirement, not required by licensing. Since the requirement states that each program shall provide weekly documentation for each beneficiary, which includes a summary of participation in therapies or activities and clinical progress, a description of any significant events and achievement of his or her stated goals and objectives as well as any treatment revisions.

Brenda Tierney
December 19, 2017
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If a program provides this documentation in a daily note, it concurrently meets the requirement for a weekly note. With regard to findings by the OIG auditors, providers no longer will use daily notes to meet this requirement and instead will provide weekly summation notes.

If you have any questions, please do not hesitate to contact me or Richard Hurd at 609-588-2550.

Sincerely,

A handwritten signature in blue ink, appearing to read "Elizabeth Connolly".

Elizabeth Connolly
Commissioner

c: Meghan Davey
Richard Hurd
Barbara Cooper