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MAR 15 2005

Report Number A-03-03-00377

Dr. Frederick M. Jacobs
Commissioner
Department of Health and Senior Services
State of New Jersey
P.O. Box 360
Trenton, New Jersey 08625-0360

Dear Dr. Jacobs:

Enclosed are two copies of a Department of Health and Human Services (HHS), Office of Inspector General (OIG) report entitled "Review of the Ryan White CARE Act Title II in New Jersey For The Grant Year April 1, 2001, Through March 31, 2002." A copy of this report will be forwarded to the HHS Action Official noted below for review and any action deemed necessary.

Final determination as to actions taken on all matter reported will be made by the HHS action official named below. We request that you respond to the action official within 30 days of 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.

In accordance with the principles of the Freedom of Information Act, (5 U.S.C. 552, as amended by Public Law 104-231), OIG, reports issued to the Departments grantees and contractors are made available to members of the press and general public to the extent information contained therein is not subject to exemptions in the Act that the Department chooses to exercise, (See 45 CFR Part 5).

Please refer to the above report number A-03-03-00377 in all correspondence.

Sincerely yours,

Stephen Virbitsky
Regional Inspector General
for Audit Services

Enclosures – as stated

Direct Reply to HHS Action Official:

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Associate Administrator, Office of Federal Assistance Management
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Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**REVIEW OF THE RYAN WHITE
CARE ACT TITLE II IN
NEW JERSEY FOR THE GRANT
YEAR APRIL 1, 2001,
THROUGH MARCH 31, 2002**



**MARCH 2005
A-03-03-00377**

Office of Inspector General

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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

To improve the availability of support services and improve access to primary healthcare for low income, uninsured and under-insured individuals and families affected by HIV and/or AIDS, Congress enacted the Ryan White Comprehensive AIDS Resource Emergency (CARE) Act, Title II (Title II) in August 1990. The Department of Health and Human Services, Health Resources and Services Administration (HRSA) administers Title II at the Federal level. In New Jersey, the Department of Health and Senior Services, Division of AIDS Prevention and Control (New Jersey) administers the Ryan White CARE Act Title II program.

For the period from April 1, 2001, through March 31, 2002 (grant year 2001), New Jersey received Title II funding totaling \$62,148,667 and expended \$40,953,407 to provide services for people with HIV and AIDS. New Jersey carried over its unexpended funds of \$21,195,260 to future years. New Jersey also expended State funds of \$20,474,704 on Title II during grant year 2001.

OBJECTIVES

As part of a national review stemming from a Senate Finance Committee request to review Title II program activities and use of funds, we determined whether New Jersey:

- met service measurement goals,
- complied with program requirements in the expenditure of Title II funds,
- followed applicable cost requirements in the expenditure of CARE Act Title II funds.

SUMMARY OF FINDINGS

New Jersey:

- reported it had not achieved a majority (56 percent) of its service measurement goals,
- complied with program requirements in the expenditure of Title II funds,
- complied with applicable cost requirements in the expenditure of CARE Act Title II funds with one minor exception. New Jersey expended Federal funds of \$15,704 for 67 duplicate AIDS Drug Assistance Program (ADAP) claims. New Jersey paid approximately 135,000 ADAP claims during this period, therefore, we did not consider this a significant issue.

We recommend New Jersey:

1. assure it achieves future service measurement goals,
2. establish procedures to eliminate duplicate payments, credit \$15,704 to the Title II program and credit Title II for the Federal portion of duplicate claims identified in other grant years.

AUDITEE COMMENTS

By letter dated March 9, 2005, New Jersey officials concurred with our recommendations. New Jersey's written response is presented in its entirety in Appendix A.

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INTRODUCTION

BACKGROUND

Ryan White CARE Act Title II

Within the Department of Health and Human Services, HRSA administers Title II, enacted in 1990 and reauthorized in 1996 and 2000. The objective of Title II is to improve access to high-quality, community based primary medical care and support services for HIV/AIDS infected people. Aimed at people who lack or have limited healthcare, Title II programs are the payer of last resort, and fill gaps not covered by Medicaid or private insurance.

HRSA awards Title II grants to all U. S. States and Territories. States are allowed program flexibility to ensure a basic standard of care across their diverse service area.

New Jersey's CARE Act Title II Program

During the grant year, New Jersey contracted with 66 sub-grantees to provide services under Title II throughout the State. The majority of funds were earmarked for HIV medications through ADAP. New Jersey ADAP expenditures were \$27,727,938, approximately 68 percent of its Title II Federal expenditures.

New Jersey pays pharmacies that dispense ADAP medications to these patients. The pharmaceutical manufacturing companies give New Jersey rebates for these medications.

OBJECTIVES, SCOPE AND METHODOLOGY

Objectives

As part of a national review stemming from a Senate Finance Committee request to review Title II program activities and use of funds, we determined whether New Jersey:

- met service measurement goals,
- complied with program requirements in the expenditure of Title II funds,
- followed applicable cost requirements in the expenditure of CARE Act Title II funds.

Scope

We reviewed New Jersey's Title II Program. During the grant year, New Jersey expended \$40,953,407 in Federal funds and \$20,474,704 in State funds on Title II. We did not review New Jersey's overall internal control structure. Our review of internal controls was limited to those considered necessary to accomplish our objectives. Our

fieldwork was performed at the New Jersey Department of Health and Senior Services in Trenton and Hamilton, NJ as well as pharmacies throughout New Jersey.

Methodology

To accomplish our objectives, we:

- compared New Jersey's initial and updated service measurement goals to the results listed in New Jersey's grant year 2001 final report and we also reviewed but did not confirm, explanations for the unachieved goals,
- compared the number of ADAP beneficiaries receiving services listed on New Jersey's final report to supporting documentation,
- reviewed New Jersey's ADAP claim payments in search of duplication,
- reviewed documentation related to sub-grantee monitoring and State review of single audit reports,
- compared New Jersey's matching payment percent to HRSA requirements for these payments,
- compared account balances supporting amounts listed on New Jersey's Maintenance of Effort report to account balances supporting the prior year report,
- determined if New Jersey expenditures for administration, planning and evaluation were less than HRSA limits,
- reviewed comments from public hearing meetings to determine if these comments affected New Jersey's administration of Title II.

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

RESULTS OF REVIEW

We found that New Jersey:

- reported it had not achieved a majority (56 percent) of its service measurement goals,
- complied with program requirements in the expenditure of Title II funds,
- complied with applicable cost requirements in the expenditure of CARE Act Title II funds with one minor exception. New Jersey expended Federal funds of \$15,704 for 67 duplicate ADAP claims. New Jersey paid approximately 135,000

ADAP claims during this period, therefore, we did not consider this a significant issue.

NEW JERSEY REPORTED IT DID NOT MEET SERVICE MEASUREMENT GOALS

The CARE Act Requires States to Set Goals and the CARE Act Manual Requires States to Meet Goals

Section 2617 (b)(4) of the CARE Act requires States to describe services that will be provided with CARE Act funding in its application. In response to this requirement, New Jersey set and submitted service measurement goals in the “Implementation Plan” section of the application for funds.

The CARE Act Section 2604 (c) requires quality management. The CARE Act Manual section II, chapter 5 states that a characteristic of quality management is that data is collected and used in the quality improvement process to assure that goals are accomplished.

New Jersey’s service measurement goals detailed targets for ADAP, Consortia Services, Direct Services, Home Care, Health Insurance Continuation Program and various outreach services. Service measurement goals were divided into two types, the target number of clients and the target number of service units.

New Jersey Reported It Did Not Achieve A Majority of Its Goals

New Jersey reported that it did not achieve 56 percent or 79 of its 142 service measurement goals in the grant year 2001 final report.

New Jersey Increased and Added Goals

New Jersey added 50 new goals during the grant year and increased its target on 38 goals. Therefore, New Jersey either added or increased 88 of its 142 goals (62 percent).

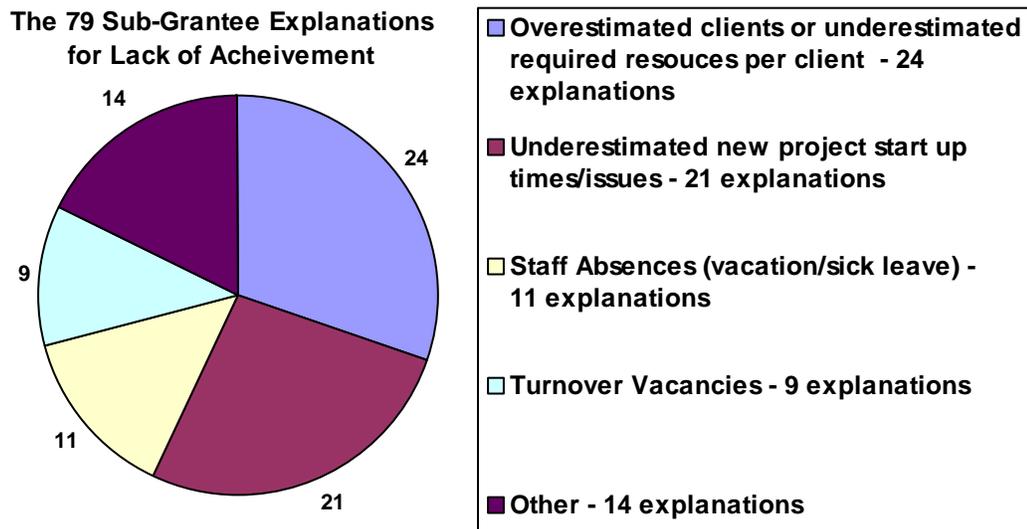
New Jersey raised its goals to obtain approval to expend unspent prior year funds, (carryover funds). During the grant year, New Jersey carried over prior year funding totaling \$18,672,810. To expend it, HRSA required New Jersey to explain how it would use the carryover funds for its service measurement goals, specifically, the number of clients it would serve and the number of service units it would deliver. In response, New Jersey added/increased 88 of 142 service measurement goals.

Despite obtaining approval to expend its carryover funds, New Jersey did not expend any of its carryover during the grant year. If New Jersey had not raised or added goals, it would have achieved 55 percent of its original 101 grant year 2001 goals.¹

¹ New Jersey had 101 goals in its original application, it added 50 goals and deleted 9 goals and therefore, had 142 goals in its final report.

New Jersey sub-grantee officials, who were responsible for achieving 138 of the 142 goals, submitted explanations for some (37 of 79) unachieved goals. However, they did not submit explanations for 42 of the 79 unachieved goals.

Sub-grantees submitted 79 explanations for 37 unachieved goals including multiple explanations for some goals. In 45 of the 79 explanations, sub-grantees indicated that the goals overestimated clients, underestimated the amount of time/resources required to service client needs and underestimated the start-up times/issues. Therefore, most sub-grantees who submitted explanations indicated the goals were unrealistic. We detailed the sub-grantee explanations on the chart below:



In summary, New Jersey raised and added goals to obtain the authority to expend its carryover funds and would have achieved a majority of its goals, if it did not change them. Additionally, most sub-grantees who sent explanations for unachieved goals indicated that New Jersey set unrealistic goals.

New Jersey Did Not Service The Number of Clients Planned

New Jersey set goals to expend its carryover funds of over \$18 million on its clients. However, it did not expend these funds and did not achieve a majority of its goals. Therefore, New Jersey did not service the number of clients or perform the services planned.

NEW JERSEY COMPLIED WITH PROGRAM REQUIREMENTS IN THE EXPENDITURE OF TITLE II FUNDS

New Jersey met requirements for non-Federal matching funds, maintenance of effort, administrative/planning/evaluation spending limits, involved the public in the administration of Title II and monitored its sub-grantees.

Title II Requirements for States

Sections 2617, 2618, and 2625 of the CARE Act requires States to meet program requirements for non-Federal matching funds, maintaining State funding effort at prior year levels, administrative/planning/evaluation spending limits and public involvement in the administration of Title II. In addition, section II chapter 1 of the CARE Act Manual requires contractor/sub-grantee monitoring.

New Jersey Complied with Most Federal Care Act Requirements

New Jersey complied with most Federal CARE Act requirements in that it properly:

- matched Federal funds with State funds,
- maintained its effort by exceeding prior-year State program funding,
- limited combined administrative/planning/evaluation expenditures to less than 4 percent of total expenditures, which is less than the required limit of 15 percent,
- involved HIV/AIDS advocacy group personnel in the administration of New Jersey's Title II program.

Finally, based on a judgmental sample of 25 sub-grantees, we determined that either a single audit was performed by an independent Certified Public Accountant and reviewed by New Jersey, or a site visit was performed at each sampled sub-grantee during the grant year. Therefore, New Jersey monitored its sub-grantees as required.

NEW JERSEY COULD IMPROVE ITS ADAP CLAIMS PROCESSING

New Jersey complied with applicable cost requirements in the expenditure of CARE Act Title II funds with one minor exception. New Jersey expended Federal funds of \$15,704 for 67 duplicate ADAP claims. New Jersey paid approximately 135,000 ADAP claims during this period, therefore, we do not consider this a significant issue.

States Must Employ Sound Management Practices In Delivering Title II Services

The CARE Act Manual requires States to deliver services in a coordinated, cost effective manner.

New Jersey Paid Duplicate ADAP Claims

New Jersey complied with applicable cost requirements for expending CARE Act Title II funds, except it spent Federal funds for duplicate ADAP claims.

New Jersey Procedures Were Inadequate To Prevent Duplicate Payments

New Jersey did not have adequate procedures to prevent paying duplicate ADAP claims, or eliminate duplicate claims from its Federal expenditures.

New Jersey ADAP Claims Included Duplicated Federal Expenditures of \$15,704

New Jersey paid 67 duplicate ADAP claims. These payments included Federal expenditures of \$15,704.² New Jersey paid approximately 135,000 ADAP claims during this period, therefore, we did not consider this a significant issue.

New Jersey officials became aware of the duplicate payments based on our review. Additional duplicate payments may have occurred in other grant years. We did not determine the amount of duplicate payments from other grant years.

RECOMMENDATIONS

We recommend New Jersey:

1. assure it achieves future service measurement goals,
2. establish procedures to eliminate duplicate payments, credit \$15,704 to the Title II program and credit Title II for the Federal portion of duplicate claims identified in other grant years.

AUDITEE COMMENTS

By letter dated March 9, 2005, New Jersey officials concurred with our recommendations. Regarding unachieved goals, New Jersey concurred that it increased goals to obtain approval to spend the carryover funds of \$18,672,810 and did not achieve a majority of the goals. However, New Jersey reports it no longer accumulates large carryovers and has better utilization history on which it bases Title II goals.

Regarding the duplicated ADAP claims, New Jersey officials stated that they implemented procedures to prevent paying them and in October 2003 conducted a review to identify all duplicate payments. New Jersey recouped \$81,745 in duplicate ADAP payments from the period from July 1, 1996 through April 23, 2002 and placed these funds back into the ADAP. New Jersey's written response is presented in its entirety in Appendix A.

² New Jersey also received rebates from pharmaceutical companies for these duplicate payments. We could not determine the amount of rebates related to the duplicate overpayments. Therefore, we estimated the rebates to be \$4,549 based upon the ratio of total grant year ADAP rebates to total ADAP payments multiplied by the total amount of duplicate payments.



State of New Jersey
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RICHARD J. CODEY
Acting Governor

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FRED M. JACOBS, M.D., J.D.
Commissioner

March 9, 2005

Mr. Stephen Virbitsky
Office of Inspector General
Office of Audit Services
150 S. Independence Mall West, Suite 316
Philadelphia, Pennsylvania 19106-3499

Dear Mr. Virbitsky:

Thank you for this opportunity to respond to the proposed draft report presenting the results of your audit of the Ryan White Comprehensive AIDS Resources Emergency (CARE) Act in New Jersey for the grant year beginning on April 1, 2001 and ending on March 31, 2002. Two recommendations were made in this draft report. The position of the Department of Health and Senior Services (DHSS) regarding those recommendations is presented here.

The first recommendation proposed is that the DHSS should "assure it achieves future service measurement goals." We concur that the findings concerning the program goals are accurate. As discussed in the report, 50 new goals were added and 38 goals were increased during the grant year. The report recognizes that this was done to obtain approval to expend unspent prior year funds (carry over funds) totaling \$18,672,810. The report further states that a majority of the goals would have been achieved had the goals not been amended.

New Jersey is no longer in a position to accumulate large amounts of carry over dollars. Almost three years has passed since these objectives were established. Therefore, a better history of utilization is now available on which to base program objectives, which are continually refined from year to year.

It is also important to note that no negative impact on the provision of direct services was experienced as a result of not achieving all of the program goals. These funds support staff and other costs needed to allow the programs to remain fully operational throughout the grant period. Therefore, it would be inaccurate to conclude that by not achieving the program goals, clients were unable to access services as there has never been a waiting list in New Jersey for any Title II programs.

The second recommendation presented in the draft report is to "establish procedures to eliminate duplicate payments, credit \$15,704, to the Title II program and credit Title II for the federal portion of duplicate claims identified in other grant years." This recommendation concerns Title II funding under the AIDS Drug Assistance Program (ADAP). It was found that New Jersey paid 67 duplicate ADAP claims. However, the report acknowledges that New Jersey paid approximately 135,000 ADAP claims during this period and, therefore, payment of duplicate claims is not being considered as a significant issue. We concur with these findings.

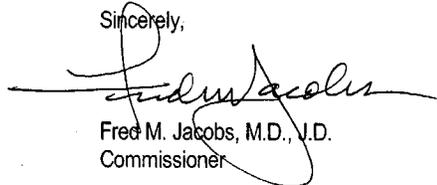
Mr. Stephen Virbitsky
Page 2

A review of ADAP claims and expenditures was conducted in October 2003 with the intent of identifying all duplicate claims. A total of \$81,744.69 related to 310 duplicate claims made from July 1, 1996 to April 23, 2002 was recovered. The recovery of these dollars was done as part of the regular billing cycle and the funds recouped were put back into the ADAP. There were no duplicates found after April 23, 2002, which is when recipient specific eligibility was added to the on-line approval process conducted by the pharmacies. This activity, known as cost avoidance, is now a routine quality assurance activity that occurs at the point of sale. This system also has the capability of identifying potential situations involving fraud and abuse. Therefore, as New Jersey now has adequate procedures in place to prevent paying duplicate ADAP claims, no corrective action is required.

I was pleased to see that the audit revealed that New Jersey has complied with most federal CARE Act requirements, including those pertaining to matching funds, maintenance of effort, limits on combined expenditures for administration/planning/evaluation, consumer involvement in the administration of the Title II program, and monitoring of sub-grantees.

The provision of Title II dollars to the DHSS is critical to maintaining the networks of quality health care and support services that individuals and families affected by HIV need. I appreciate any recommendations that will help us to better perform our duties and safeguard these assets as we carry out our mission to protect the health and well-being of all New Jersey residents.

Sincerely,

A handwritten signature in black ink, appearing to read "Fred M. Jacobs", written over a horizontal line.

Fred M. Jacobs, M.D., J.D.
Commissioner

ACKNOWLEDGMENTS

This report was prepared under the direction of Stephen Virbitsky, Regional Inspector General for Audit Services. Other Principal Office of Audit Staff who contributed include:

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