



July 14, 2011

TO: Donald M. Berwick, M.D.
Administrator
Centers for Medicare & Medicaid Services

FROM: /Lori S. Pilcher/
Acting Deputy Inspector General for Audit Services

SUBJECT: Review of Medicaid Administrative Costs Claimed for the Pennsylvania Department of Aging's Direct Care Worker Initiative (A-03-10-00206)

Attached, for your information, is an advance copy of our final report on Medicaid administrative costs claimed for the Pennsylvania Department of Aging's Direct Care Worker Initiative. We will issue this report to the Pennsylvania Department of Public Welfare within 5 business days.

If you have any questions or comments about this report, please do not hesitate to call me, or your staff may contact Brian P. Ritchie, Assistant Inspector General for the Centers for Medicare & Medicaid Audits, at (410) 786-7104 or through email at Brian.Ritchie@oig.hhs.gov or Stephen Virbitsky, Regional Inspector General for Audit Services, Region III, at (215) 861-4470 or through email at Stephen.Virbitsky@oig.hhs.gov. Please refer to report number A-03-10-00206.

Attachment



Office of Audit Services, Region III
Public Ledger Building, Suite 316
150 S. Independence Mall West
Philadelphia, PA 19106-3499

July 19, 2011

Report Number: A-03-10-00206

Ms. Karen Deklinski
Acting Deputy Secretary for Administration
Pennsylvania Department of Public Welfare
P. O. Box 2375
Harrisburg, PA 17105-2375

Dear Ms. Deklinski:

Enclosed is the U.S. Department of Health & Human Services (HHS), Office of Inspector General (OIG), final report entitled *Review of Medicaid Administrative Costs Claimed for the Pennsylvania Department of Aging's Direct Care Worker Initiative*. We will forward a copy of this report to the HHS action official noted on the following 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 this 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.

Section 8L of the Inspector General Act, 5 U.S.C. App., requires that OIG post its publicly available reports on the OIG Web site. Accordingly, this report will be posted at <http://oig.hhs.gov>.

If you have any questions or comments about this report, please do not hesitate to call me, or contact Robert Baiocco, Audit Manager, at (215) 861-4486 or through email at Robert.Baiocco@oig.hhs.gov. Please refer to report number A-03-10-00206 in all correspondence.

Sincerely,

/Stephen Virbitsky/
Regional Inspector General
for Audit Services

Enclosure

Direct Reply to HHS Action Official:

Ms. Jackie Garner
Consortium Administrator
Consortium for Medicaid and Children's Health Operations
Centers for Medicare & Medicaid Services
233 North Michigan Avenue, Suite 600
Chicago, IL 60601

Department of Health & Human Services

**OFFICE OF
INSPECTOR GENERAL**

**REVIEW OF MEDICAID
ADMINISTRATIVE COSTS CLAIMED FOR
THE PENNSYLVANIA
DEPARTMENT OF AGING'S
DIRECT CARE WORKER INITIATIVE**



Daniel R. Levinson
Inspector General

July 2011
A-03-10-00206

Office of Inspector General

<http://oig.hhs.gov>

The mission of the Office of Inspector General (OIG), as mandated by Public Law 95-452, as amended, is to protect the integrity of the Department of Health & Human Services (HHS) programs, as well as the health and welfare of beneficiaries served by those programs. This statutory mission is carried out through a nationwide network of audits, investigations, and inspections conducted by the following operating components:

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The Office of Audit Services (OAS) provides auditing services for HHS, either by conducting audits with its own audit resources or by overseeing audit work done by others. Audits examine the performance of HHS programs and/or its grantees and contractors in carrying out their respective responsibilities and are intended to provide independent assessments of HHS programs and operations. These assessments help reduce waste, abuse, and mismanagement and promote economy and efficiency throughout HHS.

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THIS REPORT IS AVAILABLE TO THE PUBLIC
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Section 8L of the Inspector General Act, 5 U.S.C. App., requires that OIG post its publicly available reports on the OIG Web site.

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.

EXECUTIVE SUMMARY

BACKGROUND

Pursuant to Title XIX of the Social Security Act (the Act), 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 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. In Pennsylvania, the Department of Public Welfare (State agency) administers the Medicaid program.

Section 1903(a) of the Act permits States to claim Federal reimbursement for Medicaid administrative costs. These costs must be “for the proper and efficient administration of the State plan.” In a December 1994 letter to State Medicaid directors, CMS (formerly the Health Care Financing Administration) clarified its position on State claims for administrative costs, stating that “allowable claims ... must be directly related to the administration of the Medicaid program.” CMS’s letter included a listing of allowable administrative activities, but the list was not all inclusive. The letter also stated that claims for administrative costs cannot “reflect the cost of providing a direct medical or remedial service, nor be used for training purposes.”

The Pennsylvania Department of Aging plans and coordinates all programs for the elderly in the State and contracts with local Area Agencies on Aging (local agencies) to administer most of its programs. Local agencies contract with local providers, including direct care workers, for service delivery. There are 52 local agencies in Pennsylvania; 35 are divisions of government and 17 are nonprofit organizations.

In State fiscal year (FY) 2000–2001, the Department of Aging implemented the Direct Care Worker Initiative (Initiative). Its goal is to improve local agencies’ recruitment and retention of direct care workers. Direct care workers provide care and personal assistance to older people, chronically ill people, or people with disabilities. They include nursing assistants, home health aides, home care workers, personal care aides and attendants, and respite care workers. The Department of Aging provides Initiative funds to local agencies and allows them discretion on how those funds are spent. Local agencies reported that Initiative funds were spent on bonuses, training, and recognition events.

For State FYs 2007 through 2009, the State agency claimed \$3,484,488 (\$1,742,243 Federal share) for a portion of the Initiative’s expenditures. These expenditures were claimed as a Medicaid administrative cost.

OBJECTIVE

Our objective was to determine whether the State agency complied with Federal requirements for its claims of Initiative costs.

SUMMARY OF FINDING

The State agency did not comply with Federal requirements when it claimed Initiative costs. The claimed costs were supplemental to payments to direct care workers for direct medical services and included training and other nonadministrative expenses. These costs were not incurred to operate the Medicaid program, and CMS specifically prohibits claiming them as administrative costs. Accordingly, the State agency claims totaling \$3,484,488 (\$1,742,243 Federal share) in unauthorized Initiative costs for State FYs 2007 through 2009 were unallowable.

RECOMMENDATIONS

We recommend that the State agency:

- refund \$1,742,243 in Federal funds for unallowable Initiative costs,
- refund the Federal share of unallowable Initiative costs claimed after our audit period, and
- discontinue all future claims of Initiative costs.

STATE AGENCY COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE

The State agency did not directly address our recommendations. The State agency said that the Initiative has a stated goal of improving recruitment and retention and that the Department of Aging continues to believe that local agencies' retention and educational activities are directly related to the administration of the Medicaid program and therefore allowable. The State agency's comments are presented in their entirety as the Appendix.

Nothing in the State agency's comments caused us to change our recommendations. The Department of Aging's claimed costs for the Initiative were not administrative costs incurred to operate the Medicaid program.

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INTRODUCTION

BACKGROUND

Medicaid Program

Pursuant to Title XIX of the Social Security Act (the Act), 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 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. In Pennsylvania, the Department of Public Welfare (State agency) administers the Medicaid program.

Pursuant to section 1905(b) of the Act, States receive a Federal share for medical assistance based on the Federal medical assistance percentage (FMAP), which varies depending on the State's relative per capita income. During our audit period, the FMAP in Pennsylvania was approximately 55 percent.¹ Section 1903(a) of the Act permits States to claim Federal reimbursement for Medicaid administrative costs. These costs must be "for the proper and efficient administration of the State plan." Most Medicaid administrative costs are reimbursed at the 50-percent rate (section 1903(a)(7) of the Act). However, the State agency may receive enhanced Federal funding for some administrative costs. States claim medical assistance and administrative costs on Form CMS-64, Quarterly Medicaid Statement of Expenditures for the Medical Assistance Program (CMS-64).

In a December 1994 letter to State Medicaid directors, CMS² clarified its position on State claims for administrative costs, stating that "allowable claims ... must be directly related to the administration of the Medicaid program." CMS's letter provided a list of allowable administrative activities, but it was not all inclusive. The letter also stated that claims for administrative costs cannot "reflect the cost of providing a direct medical or remedial service."

Local Area Agencies on Aging

The Pennsylvania Department of Aging plans and coordinates all programs for the elderly in the State. As authorized under 42 U.S.C. § 3025(a)(2)(A), the Department of Aging designates local Area Agencies on Aging (local agencies) to provide services for the elderly in defined planning and service areas. Local agencies may be public or nonprofit private organizations. The Department of Aging has designated 52 local agencies, including 35 divisions of government and 17 nonprofit organizations. The Department of Aging contracts with the local agencies to administer most of its programs.

¹ The American Recovery and Reinvestment Act of 2009 (Recovery Act), P.L. No. 111-5, enacted February 17, 2009, increased the FMAP to more than 63 percent in Pennsylvania for claims after October 1, 2008.

² The letter was issued by the Health Care Financing Administration, which was renamed CMS on July 1, 2001.

Local agencies contract with local providers, including direct care workers, for service delivery. Direct care workers, including nursing assistants, home health aides, home care workers, personal care aides and attendants, and respite care workers, provide care and personal assistance to the elderly, chronically ill, and people with disabilities. Direct care workers provide services to both Medicaid beneficiaries and non-Medicaid-eligible individuals.

Direct Care Worker Initiative

In State fiscal year (FY) 2000–2001, the Department of Aging implemented the Direct Care Worker Initiative (Initiative) to provide funds to local agencies for incentives to improve the recruitment and retention of direct care workers at its local agencies. The Department of Aging allows local agencies discretion on how they spend Initiative funds. However, the Department of Aging prohibits local agencies from using Initiative funds to supplement or create new cost-of-living adjustments or to offset the local agencies' administrative costs. Local agencies report total expenditures for the Initiative and the percentage of the total attributable to each expense. The Initiative was not part of the CMS-approved Medicaid program; however, the State agency claimed a portion of Initiative costs as Medicaid administrative costs.

OBJECTIVE, SCOPE, AND METHODOLOGY

Objective

Our objective was to determine whether the State agency complied with Federal requirements for its claims of Initiative costs.

Scope

We reviewed the State agency's claims for \$3,484,488 (\$1,742,243 Federal share) of Initiative costs as Medicaid administrative costs for State FYs 2007 through 2009. We did not review the overall internal control structure of the State agency. We limited our review to those controls related to the State agency's methodology for claiming Initiative expenditures.

We performed our fieldwork at the State agency in Harrisburg, Pennsylvania, in August 2010.

Methodology

To accomplish our objective, we:

- reviewed relevant criteria, including the Act, Federal Medicaid regulations, CMS letters to State Medicaid directors, the Medicaid State plan, and Department of Aging program directives;
- interviewed Department of Aging officials to gain an understanding of the Initiative;
- reviewed State agency accounting records that supported its CMS-64 claims to determine Initiative expenditures;

- reviewed local agencies' Initiative expenditure reports; and
- discussed our findings with CMS, Department of Aging, and 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 finding and conclusions based on our audit objective.

FINDING AND RECOMMENDATIONS

The State agency did not comply with Federal requirements when it claimed Initiative costs. The claimed costs were supplemental to payments to direct care workers for direct medical services and included training and other nonadministrative expenses. These costs were not incurred to operate the Medicaid program, and CMS specifically prohibits claiming them as administrative costs. Accordingly, the State agency's claims totaling \$3,484,488 (\$1,742,243 Federal share) in Initiative costs for State FYs 2007 through 2009 were unallowable.

FEDERAL REQUIREMENTS

Section 1903(a) of the Act permits States to claim Federal reimbursement for Medicaid administrative costs. These costs must be "for the proper and efficient administration of the State plan." CMS's December 1994 letter to State Medicaid directors (#122094) clarifies CMS's policy concerning State claims for administrative costs. CMS states that "We have consistently held that allowable claims under this authority must be directly related to the administration of the Medicaid program."

Although not all inclusive, CMS's list of allowable Medicaid administrative activities provided for Medicaid eligibility determinations, Medicaid outreach, prior authorizations for Medicaid services, third-party liability activities, and utilization reviews. CMS also stated that allowable administrative costs "cannot reflect the cost of providing a direct medical or remedial service, such as immunizations or psychological counseling" and "may not include the overhead costs of operating a provider facility, such as the supervision and training of providers."

UNALLOWABLE INITIATIVE COSTS CLAIMED

The State agency's claims did not reflect administrative costs as defined in the Act and later clarified by CMS in its letter to State Medicaid directors. In correspondence to local agencies, the Department of Aging stated that Initiative expenditures were intended to retain direct care workers. Local agencies used Initiative funds primarily for longevity/retention bonuses, which included cash payments as well as gas cards, mileage allowances, and uniform allowances. Initiative funds also supported recognition events, such as dinners, picnics, the Direct Care Worker of the Year Award, and other nonadministrative activities such as job fairs, signing bonuses, medical and pension benefits, advertising, and childcare. This use of Initiative funds represented supplemental payments for medical services and did not constitute expenditures for

administrative costs. Local agencies claimed administrative costs for training programs as well, which CMS specifically prohibits. The table shows how the local agencies allocated their Initiative funds to direct care worker retention efforts and not to Medicaid administrative activities.

Local Agency Allocation of Initiative Funds

Use of Initiative Funds	State FY 2006–2007	State FY 2007–2008	State FY 2008–2009
Longevity/retention bonuses	73%	68%	75%
Training programs	11%	18%	15%
Recognition events	6%	7%	9%
Other	10%	7%	1%

For State FYs 2007 through 2009, the State agency improperly claimed \$3,484,488 (\$1,742,243 Federal share) in Initiative costs as Medicaid administrative costs.

RECOMMENDATIONS

We recommend that the State agency:

- refund \$1,742,243 in Federal funds for unallowable Initiative costs,
- refund the Federal share of unallowable Initiative costs claimed after our audit period, and
- discontinue all future claims of Initiative costs.

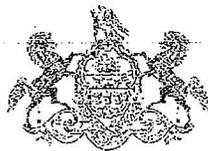
**STATE AGENCY COMMENTS AND
OFFICE OF INSPECTOR GENERAL RESPONSE**

The State agency did not directly address our recommendations. The State agency said that the Initiative has a stated goal of improving recruitment and retention and that the Department of Aging continues to believe that local agencies’ retention and educational activities are directly related to the administration of the Medicaid program and therefore allowable. The State agency’s comments are presented in their entirety as the Appendix.

Nothing in the State agency’s comments caused us to change our recommendations. The Department of Aging’s claimed costs for the Initiative were not administrative costs incurred to operate the Medicaid program.

APPENDIX

APPENDIX: STATE AGENCY COMMENTS



COMMONWEALTH OF PENNSYLVANIA

JUN 01 2011

Mr. Steven Virbitsky
Regional Inspector General for Audit Services
Department of Health & Human Services
Office of Inspector General
Office of Audit Services, Region III
150 South Independence Mall West, Suite 316
Philadelphia, Pennsylvania 19106-3499

Dear Mr. Virbitsky:

The Department of Public Welfare (DPW) has received the draft report number A-03-10-00206 titled, "Review of Medicaid Administrative Costs Claimed for Pennsylvania's Department of Aging's Direct Care Worker Initiative". The objective of this audit was to ensure Pennsylvania's compliance with federal regulations regarding administrative claims for Initiative costs.

Office of Inspector General Recommendation: We recommend that the State agency refund \$1,742,243 in federal funds for unallowable Initiative costs, refund the Federal share of unallowable Initiative costs claimed after our audit period, and discontinue all future claims for Initiative costs.

Department of Public Welfare Response: The Pennsylvania Department of Aging's Direct Care Worker (DCW) Initiative has a stated goal of improving local agencies' recruitment and retention of direct care workers. The Department of Aging's management reasoned that the best methodology for achieving such an outcome was to allow Area Agencies on Aging (AAA) to expend the majority of their DCW funds on recruitment and retention activities while also allowing the AAA to establish educational scholarships and continuing professional education activities.

The Department of Aging continues to believe these activities are directly related to the administration of the Medicaid program and are thereby allowable. By emphasizing retention and training, Medical Assistance consumers are afforded the opportunity to be cared for by professional direct care workers who are committed to their occupation.

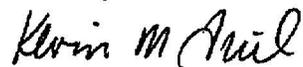
DEPUTY SECRETARY FOR ADMINISTRATION

Mr. Steven Virbitsky

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Thank you for your assistance in this matter. If you have questions or concerns regarding this request, please contact Maranatha Earling, Audit Resolution Section, at (717) 772-4911.

Sincerely,

A handwritten signature in cursive script that reads "Kevin M Friel".

Kevin Friel
Acting Deputy Secretary for Administration

c: Mr. Robert Baiocco, Audit Manager