



Office of Audit Services, Region III
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November 10, 2011

Report Number: A-03-11-00200

Mr. Joshua M. Sharfstein, MD
Secretary
Maryland Department of Health and Mental Hygiene
201 West Preston Street
Baltimore, MD 21201

Dear Dr. Sharfstein:

Enclosed is the U.S. Department of Health and Human Services (HHS), Office of Inspector General (OIG), final report entitled *Review of Personal Care Services Claimed Under Maryland's Medicaid State Plan*. We will forward a copy of this report to the HHS action official noted below.

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 direct them to the HHS action official. Please refer to report number A-03-11-00200 all correspondence.

Sincerely,

/Stephen Virbitsky/
Regional Inspector General
for Audit Services

Enclosure

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 and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**REVIEW OF PERSONAL CARE SERVICES
CLAIMED UNDER MARYLAND'S
MEDICAID STATE PLAN**



Daniel R. Levinson
Inspector General

November 2011
A-03-11-00200

Office of Inspector General

<http://oig.hhs.gov>

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Notices

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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.

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 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. In Maryland, the Department of Health and Mental Hygiene (the State agency) administers the Medicaid program.

Federal Requirements for Personal Care Services

Section 1905(a)(24) of the Act defines personal care services as an allowable Medicaid benefit. Pursuant to section 1905(a)(24) of the Act and implementing Federal regulations (42 CFR § 440.167), personal care services must be (1) authorized for the individual by a physician in accordance with a plan of treatment or (at the option of the State) otherwise authorized for the individual in accordance with a service plan approved by the State; (2) provided by an individual who is qualified to provide such services and who is not a legally responsible family member; and (3) furnished to individuals residing in their homes and not residing in hospitals, nursing facilities, intermediate care facilities for the mentally retarded, or institutions for mental diseases.

Maryland's Personal Care Services Program

Within the State agency, the Office of Health Services' Long-Term Care and Community Support Services Administration oversees Maryland's Medicaid personal care services program and is responsible for authorizing care. Personal care services include, but are not limited to, bathing, assistance with toileting or bed pan use, meal preparation in accordance with dietary guidelines and assistance with eating, and shopping for items related to promoting the patient's nutritional status and other health needs. A registered nurse develops a plan of care and monitors the delivery of service on behalf of the beneficiary. Personal care aides deliver the service.

Amendment 05-09 of the State plan allows personal care services provided "in a beneficiary's home or workplace, authorized by a physician in accordance with a plan of treatment or authorized for the individual in accordance with a plan of treatment approved by the Department of Health and Mental Hygiene."¹ The Code of Maryland Regulations (COMAR 10.09.20) implements the State plan's personal care services programs.

¹ State plan amendment 05-09, Attachment 3.1-A, page 31B. State Plan amendment 00-01 provides for personal care services, with limitations, for the medically needy (Attachment 3.1-B, page 8).

OBJECTIVE, SCOPE, AND METHODOLOGY

Objective

Our objective was to determine whether State agency claims of personal care services complied with Federal and State requirements.

Scope

Our audit period covered July 1, 2008, through June 30, 2010. Our audit population consisted of 2,057,060 claims, totaling \$54,383,241 (\$32,170,909 Federal share), for services rendered by 3,725 providers² to 6,628 beneficiaries. Our audit population did not include claims for services submitted by providers under Maryland's Home and Community Based Waiver for Older Adults. We audited those claims separately.

In performing our review, we established reasonable assurance that the claims data was accurate. We limited our review to local health department files to determine whether the documentation met the required Federal and State requirements and identified unallowable claims. Achieving our objective did not require that we assess the claims for medical necessity or quality of care. During our audit, we did not review the overall internal control structure of the State or the Medicaid program. Rather, we limited our internal control review to the objective of our audit.

We conducted fieldwork at the State agency's office in Baltimore, Maryland, and at local health department offices in 13 counties and Baltimore City.

Methodology

To accomplish our objective, we:

- reviewed applicable Federal statutes, Federal and State regulations, and State guidelines;
- held discussions with State agency officials, including local health department officials, to gain an understanding of the personal care services program in Maryland;
- identified 2,057,060 personal care service claims totaling \$54,383,241 (\$32,170,909 Federal share);
- selected a simple random sample of 100 claims from the sampling frame of 2,057,060 claims;

² The providers included 3,693 self-employed personal care aides, 8 personal care agency providers, and the 24 local Maryland Department of Health offices.

- reviewed the corresponding local health department files to determine whether the documentation met the required Federal and State requirements and identified unallowable claims; and
- discussed our findings with CMS 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.

RESULTS OF REVIEW

State agency claims for personal care services generally complied with Federal and State requirements. Based on our review of 100 claims, 3 claims were unallowable because the services were unsupported by case records or insufficiently documented. Since this is below the threshold of six errors needed for a statistical projection, we have no finding nor do we offer any recommendations.