



Office of Audit Services, Region III
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Philadelphia, PA 19106-3499

August 22, 2011

Report Number: A-03-11-00202

Mr. Wayne M. Turnage
Director
Department of Health Care Finance
899 North Capitol Street NE, Suite 600
Washington, DC 20001

Dear Mr. Turnage:

Enclosed is the U.S. Department of Health and Human Services (HHS), Office of Inspector General (OIG), final report entitled *Review of Provider Compliance With the District of Columbia's Medicaid Durable Medical Equipment Program Standards for Physical Presence*. 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-03-11-00202 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 and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**REVIEW OF PROVIDER COMPLIANCE
WITH THE DISTRICT OF COLUMBIA'S
MEDICAID DURABLE MEDICAL
EQUIPMENT PROGRAM STANDARDS
FOR PHYSICAL PRESENCE**



Daniel R. Levinson
Inspector General

August 2011
A-03-11-00202

Office of Inspector General

<http://oig.hhs.gov>

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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 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 the District of Columbia (the District), the Department of Health Care Finance (State agency) administers the Medicaid program.

District of Columbia Medicaid Durable Medical Equipment Program

Pursuant to its Medicaid State plan, the District provides durable medical equipment and prosthetics, orthotics and supplies (DMEPOS) for eligible beneficiaries through its Durable Medical Equipment (DME) program. The DME program reimburses providers that sell or rent to beneficiaries DMEPOS, including hospital beds, braces, home dialysis supplies and equipment, therapeutic shoes for diabetics, wheelchairs, walkers, scooters, oxygen equipment, and other home health care items. During the period January 1, 2007, through June 30, 2010, the District's DME program reimbursed providers approximately \$50 million.

Title 29 of the District of Columbia Municipal Regulations (DCMR) require that a DMEPOS provider must maintain a physical facility (29 DCMR § 996.2(c)), be open for business at least 40 hours per week (29 DCMR § 996.2(e)), maintain a visible sign stating the provider name and hours of operation (29 DCMR § 996.2(f)), permit on-site inspections (29 DCMR § 996.2(g)), and maintain a primary business phone number (29 DCMR § 996.2(j)).

A separate report identified 10 DMEPOS providers who were enrolled in the District's Medicaid DME program after their Medicare billing numbers had been revoked. We included in this report those DMEPOS providers previously identified who remained active during our audit period.

OBJECTIVE

To determine whether the State agency ensured that DMEPOS providers complied with District regulations for five selected standards concerning physical presence.

SUMMARY OF RESULTS

The State agency did not ensure that DMEPOS providers complied with the State plan and District regulations for five selected standards concerning physical presence. Of the 112 District DMEPOS providers for whom we performed site visits, 92 met all 5 District standards concerning physical presence. However, we identified 20 providers that failed to meet at least 1

of the 5 standards: 11 providers were not open for business the required 40 hours per week, 7 providers did not have a physical facility, and 2 providers did not have the required sign that would identify them as DMEPOS providers. All providers that maintained a physical facility permitted on-site inspections and maintained a business phone number.

ACTION TAKEN

During our audit we advised the District of our findings. The District took corrective actions to improve its oversight of DMEPOS providers and terminated 10 of the 20 providers that were not in compliance with at least 1 of the 5 standards, including the 7 providers that did not have a physical facility.

RECOMMENDATION

We recommend that the District take action against the 10 providers not operating the required 40 hours per week and ensure that DMEPOS providers comply with District regulations for the 5 selected standards concerning physical presence.

STATE AGENCY COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE

The State agency agreed with the intent of our recommendation and said that it is continuing to review all DME providers to ensure that they meet all required standards. The State agency said that based on a review of their records, it determined that 4 of the 10 providers in our finding were in compliance with the required standards and 1 provider was in compliance but has since left the program. The State agency agreed that five DME providers were not in compliance with the standard for hours of operation and said that it will terminate those five providers or update their files. The State agency's comments on our draft report are included in their entirety as the Appendix.

We based our finding that the 10 DME providers were not in compliance with the standard for hours of operation on site visit inspections, during which we observed posted hours of operations. Nothing in the State agency's comments caused us to change our recommendation.

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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 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 the District of Columbia (the District), the Department of Health Care Finance (State agency) administers the Medicaid program.

The District's Medicaid Durable Medical Equipment Program

Pursuant to its Medicaid State plan, the District provides durable medical equipment and prosthetics, orthotics and supplies (DMEPOS) for eligible beneficiaries through its Durable Medical Equipment (DME) program. The DME program reimburses providers that sell or rent to beneficiaries DMEPOS, including hospital beds, braces, home dialysis supplies and equipment, therapeutic shoes for diabetics, wheelchairs, walkers, scooters, oxygen equipment, and other home health care items. During the period January 1, 2007, through June 30, 2010, the District's DME program reimbursed providers approximately \$50 million.

Effective May 30, 2008, the District established standards for DMEPOS providers seeking to participate or currently participating in the DME program.¹ The District modeled the standards after the standards used in the Medicare DMEPOS program, administered by CMS.

Prior Audit of Durable Medical Equipment Program

A separate report identified 10 District providers who were enrolled in the District's Medicaid DME program after their Medicare billing numbers had been revoked. During our review, the District initiated termination action against the 10 providers. We included in this report those providers previously identified who remained active during our audit period.

OBJECTIVE, SCOPE, AND METHODOLOGY

Objective

To determine whether the State agency ensured that DMEPOS providers complied with District regulations for five selected standards concerning physical presence.

¹ The District revised the standards contained in 29 DCMR chapter 9 in July 2009; however, the requirements for physical presence remain substantially the same.

Scope

We conducted unannounced site visits for 112 of the 195 active District DMEPOS provider locations.² We did not review the overall internal control structure of the District. We limited our review to those controls related to the District's methodology for reviewing Medicaid DMEPOS providers for compliance with District standards.

We conducted our fieldwork at 112 District DMEPOS provider locations in the District, Maryland, and Virginia during August and September 2010.

Methodology

To accomplish our objective, we:

- reviewed Federal Medicaid regulations and District laws and regulations pertaining to DMEPOS provider participation in the Medicaid program,
- reviewed the portion of the District of Columbia's State plan related to the DME program,
- interviewed District officials to determine their policies and procedures for provider participation in the District's DME program,
- conducted 112 unannounced site visits at District DMEPOS providers, and
- discussed our findings with District 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.

FINDINGS AND RECOMMENDATION

The State agency did not ensure that DMEPOS providers complied with the State plan and District regulations for five selected standards concerning physical presence. Of the 112 District DMEPOS providers for whom we performed site visits, 92 met all 5 District standards concerning physical presence. However, we identified 20 providers that failed to meet at least one of the 5 standards: 11 providers were not open for business the required 40 hours per week, 7 providers did not have a physical facility, and two providers did not have the required sign that would identify them as DMEPOS providers. All providers that maintained a physical facility

² We did not conduct site visits for 83 DMEPOS providers, including providers with addresses outside of the District, Maryland and Virginia; providers that were part of a large pharmacy chain; and providers that the State agency had already taken action to terminate.

permitted on-site inspections and maintained a business phone number as required by District regulations.

DISTRICT REGULATIONS

Title 29 of the District of Columbia Municipal Regulations (DCMR) requires, among other things, that a DMEPOS provider must:

- maintain a physical facility (29 DCMR § 996.2(c)),
- be open for business at least 40 hours per week (29 DCMR § 996.2(e)),
- maintain a visible sign stating the provider name and hours of operation (29 DCMR § 996.2(f)),
- permit on-site inspections (29 DCMR § 996.2(g)), and
- maintain a primary business phone number (29 DCMR § 996.2(j)) .

DMEPOS providers are also subject to the District's administrative regulations, which provide grounds for administrative sanctions for failure to comply with pertinent District laws and regulations. Sanctions may include termination of the providers' participation in the DMEPOS program (29 DCMR § 1302.1(c)).

RESULTS OF SITE VISITS

Twenty DMEPOS providers failed to meet at least one of the five standards for physical presence. Eleven providers were not open for business the required 40 hours per week; the providers posted hours of operation ranging from 17 hours to 39 hours per week. Seven providers did not have a physical facility and have not billed the District for 2 years. They appear to have gone out of business. We also found two providers who did not have the required sign that would identify them as DMEPOS providers. All providers that maintained a physical facility permitted on-site inspections and maintained the required business phone number.

ACTION TAKEN

During our audit we advised the District of our findings. The District took corrective actions to improve its oversight of DME providers and terminated ten of the 20 DMEPOS providers that were not in compliance with at least one of the five standards, including the 7 providers that did not have a physical facility.

RECOMMENDATION

We recommend that the District take action against the 10 providers not operating the required 40 hours per week and ensure that DMEPOS providers comply with District regulations for 5 selected standards concerning physical presence.

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

The State agency agreed with the intent of our recommendation and said that it is continuing to review all DME providers to ensure that they meet all required standards. The State agency said that based on a review of their records, it determined that 4 of the 10 providers in our finding were in compliance with the required standards and 1 provider was in compliance but has since left the program. The State agency agreed that five DME providers were not in compliance with the standard for hours of operation and said that it will terminate those five providers or update their files. The State agency's comments on our draft report are included in their entirety as the Appendix.

We based our finding that the 10 DME providers were not in compliance with the standard for hours of operation on site visit inspections, during which we observed posted hours of operations. Nothing in the State agency's comments caused us to change our recommendations.

APPENDIX

APPENDIX: STATE AGENCY COMMENTS

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Department of Health Care Finance



Office of the Director



JUL 18 2011

Stephen Virbitsky
Regional Inspector General for Audit Services
US Department of Health and Human Services
Public Ledger Building
Suite 316
150 S. Independence Mall West
Philadelphia, PA 19106-3499

In Re: Report Number: A-03-11-00202

Dear Mr. Virbitsky:

This letter responds to the US Department of Health and Human Services, Office of the Inspector General's (OIG) draft report entitled *Review of Provider Compliance With the District of Columbia's Medicaid Durable Medical Equipment Program Standards for Physical Presence*. Your audit found 10 District of Columbia DME/POS Medicaid providers that did not meet the physical presence standards for participation.

The draft report recommends:

We recommend that the District take action against the 10 providers not operating the required 40 hours per week and ensure the DME/POS providers comply with District regulations for the 5 selected standards concerning physical presence.


After identifying the 10 providers referenced, the DHCF reviewed those records and determined that:

1. 4 of the 10 providers were in compliance with the District of Columbia's standards.
2. 1 had been in compliance but has since voluntarily withdrawn from the program.
3. 5 of the 10 providers need to have actions taken to either update their files or termination.

The DHCF agrees with the intent of the recommendation and is continuing to review all DME providers, on an ongoing basis, to ensure they all meet all required standards.

Thank you for the opportunity to respond to this draft report and we look forward to continuing to work collaboratively with you to ensure an efficient and compliant Medicaid program. Should you have any questions, please contact Brenda Sutton on (202) 698-2018 or at Brenda.Sutton2@dc.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Wayne M. Turnage". The signature is stylized with a large, sweeping flourish at the end.

Wayne M. Turnage
Director

cc: Linda Elam, Deputy Director
Pat Squires, Interim Director, Health Care Operations Administration
Karen Shaw, Program Manager, Division of Program Integrity
Laurie Rowe, Program Manager, Division Public and Private Provider Services