



DEPARTMENT OF HEALTH AND HUMAN SERVICES

## OFFICE OF INSPECTOR GENERAL

WASHINGTON, DC 20201



July 18, 2012

**TO:** Marilyn Tavenner  
Acting Administrator  
Centers for Medicare & Medicaid Services

**FROM:** /Gloria L. Jarmon/  
Deputy Inspector General for Audit Services

**SUBJECT:** Pennsylvania Claimed Medicaid Administrative Costs for Provider Training  
Under Its Restraint Reduction Initiative (A-03-11-00209)

Attached, for your information, is an advance copy of our final report on our review of Pennsylvania's claimed Medicaid administrative costs for provider training under its Restraint Reduction 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](mailto:Brian.Ritchie@oig.hhs.gov) or Stephen Virbitsky, Regional Inspector General for Audit Services, Region III, at [Stephen.Virbitsky@oig.hhs.gov](mailto:Stephen.Virbitsky@oig.hhs.gov). Please refer to report number A-03-11-00209.

Attachment



DEPARTMENT OF HEALTH AND HUMAN SERVICES

## OFFICE OF INSPECTOR GENERAL



OFFICE OF AUDIT SERVICES, REGION III  
PUBLIC LEDGER BUILDING, SUITE 316  
150 S. INDEPENDENCE MALL WEST  
PHILADELPHIA, PA 19106

July 24, 2012

Report Number: A-03-11-00209

Ms. Karen K. Deklinski  
Deputy Secretary for Administration  
Pennsylvania Department of Public Welfare  
P. O. Box 2675  
Harrisburg, PA 17105-2375

Dear Ms. Deklinski:

Enclosed is the U.S. Department of Health and Human Services (HHS), Office of Inspector General (OIG), final report entitled *Pennsylvania Claimed Medicaid Administrative Costs for Provider Training Under Its Restraint Reduction 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](mailto:Robert.Baiocco@oig.hhs.gov). Please refer to report number A-03-11-00209 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**

**PENNSYLVANIA CLAIMED  
MEDICAID ADMINISTRATIVE  
COSTS FOR PROVIDER TRAINING  
UNDER ITS RESTRAINT  
REDUCTION INITIATIVE**



Daniel R. Levinson  
Inspector General

July 2012  
A-03-11-00209

# ***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 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. The list was not all inclusive, but stated that claims for 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.” In State fiscal year (FY) 2010–2011, the State agency claimed \$924 million in Medicaid administrative costs, of which \$654 million was claimed as “Other Financial Participation.” We are conducting a series of audits that address unidentified Medicaid administrative costs claimed as Other Financial Participation.

The Omnibus Budget Reconciliation Act of 1987 created national standards of care for nursing home residents. Implementing regulations (42 CFR part 483) established quality-of-life rights, including freedom from physical restraints imposed for discipline or convenience and not required to treat the resident’s medical symptoms (42 CFR § 483.13(a)). In 1996, Pennsylvania launched its Restraint Reduction Initiative (the Initiative) to train nursing home providers to reduce the use of physical restraints in compliance with the Federal regulations. The Initiative subsequently introduced provider training to address other quality-of-life issues in nursing homes. Kendal Outreach, LLC (Kendal), supplies the provider training.

In State FY 1996–1997, Pennsylvania began claiming Initiative costs as Medicaid administrative costs on Form CMS-64, Quarterly Medicaid Statement of Expenditures for the Medical Assistance Program. For State FYs 1996–1997 through 2010–2011, the State agency claimed \$6,001,929 (\$3,001,536 Federal share) in Initiative costs as Medicaid administrative costs.

### **OBJECTIVE**

Our objective was to determine whether the State agency complied with Federal requirements when it claimed Medicaid administrative costs for the Initiative.

## **SUMMARY OF FINDING**

The State agency did not comply with Federal requirements when it claimed Initiative costs. The claimed costs were for training nursing home providers and not for the administration of the Medicaid program. Accordingly, the State agency's claims totaling \$6,001,929 (\$3,001,536 Federal share) in Initiative costs for State FYs 1996–1997 through 2010–2011 were unallowable.

## **RECOMMENDATIONS**

We recommend that the State agency:

- refund \$3,001,536 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**

In its written comments on our report, the State agency said that the Initiative costs were directly related to the administration of the Medicaid program and therefore were allowable Medicaid administrative costs. The State agency's comments are included in their entirety as Appendix B.

Based on our review, Initiative costs were for training nursing home provider staff and not costs to administer the Medicaid program. CMS explicitly prohibits claiming provider training as administrative costs. Nothing in the State agency's comments caused us to change our recommendations.

# TABLE OF CONTENTS

	<u>Page</u>
<b>INTRODUCTION</b> .....	1
<b>BACKGROUND</b> .....	1
Medicaid Program.....	1
Pennsylvania Restraint Reduction Initiative.....	1
Audits of the State Agency’s Medicaid Administrative Costs .....	2
<b>OBJECTIVE, SCOPE, AND METHODOLOGY</b> .....	2
Objective.....	2
Scope .....	2
Methodology.....	2
<b>FINDING AND RECOMMENDATIONS</b> .....	3
<b>FEDERAL REQUIREMENTS</b> .....	3
<b>UNALLOWABLE INITIATIVE COSTS CLAIMED</b> .....	3
<b>RECOMMENDATIONS</b> .....	4
<b>STATE AGENCY COMMENTS AND     OFFICE OF INSPECTOR GENERAL RESPONSE</b> .....	4
<b>APPENDIXES</b>	
<b>A: PENNSYLVANIA RESTRAINT REDUCTION INITIATIVE     EXPENDITURES AND CLAIMED FEDERAL SHARE</b>	
<b>B: STATE AGENCY COMMENTS</b>	

# 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.

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 (Form CMS-64).

In a December 1994 letter to State Medicaid directors, CMS<sup>1</sup> 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, 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.”

### Pennsylvania Restraint Reduction Initiative

The Omnibus Budget Reconciliation Act of 1987 created national standards of care for nursing home residents. Implementing regulations (42 CFR part 483) established quality-of-life rights. These rights include freedom from physical restraints imposed for discipline or convenience and not required to treat the resident’s medical symptoms (42 CFR § 483.13(a)).

In September 1996, Pennsylvania launched its Restraint Reduction Initiative (the Initiative) to train nursing home providers to reduce the use of physical restraints in compliance with Federal regulations. The Initiative subsequently expanded to include training for providers to address other quality-of-life issues in nursing homes, including the proper levels of medication and chemicals administered to residents, fall management and prevention, pressure ulcer prevention, and caring for residents with dementia. Kendal Outreach, LLC (Kendal), supplies the provider training.

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<sup>1</sup> The letter was issued by the Health Care Financing Administration, which was renamed CMS on July 1, 2001.

In State fiscal year (FY) 1996–1997, Pennsylvania began claiming Initiative costs as Medicaid administrative costs on Form CMS-64.

### **Audits of the State Agency’s Medicaid Administrative Costs**

In State FY 2010–2011, the State agency claimed \$924 million in Medicaid administrative costs, of which \$654 million in unidentified costs were claimed as “Other Financial Participation.” This is the third report to address the State agency’s claims for Medicaid administrative costs claimed as Other Financial Participation. The first two reports<sup>2</sup> identified two Pennsylvania Department of Aging programs for which the State agency did not comply with the Federal requirements when it claimed administrative costs under the Medicaid program.

### **OBJECTIVE, SCOPE, AND METHODOLOGY**

#### **Objective**

Our objective was to determine whether the State agency complied with Federal requirements when it claimed Medicaid administrative costs for the Initiative.

#### **Scope**

We reviewed the State agency’s claims totaling \$6,001,929 (\$3,001,536 Federal share) in Initiative costs for State FYs 1996–1997 through 2010–2011 (Appendix A). 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 and October 2011 and at Kendal in Kennett Square, Pennsylvania, in September 2011.

#### **Methodology**

To accomplish our objective, we:

- reviewed Federal laws, regulations, and guidance, and the Medicaid State plan;
- interviewed Kendal officials to gain an understanding of the Initiative;
- reviewed State agency records of Kendal’s Initiative expenditures and compared those expenditures to the State agency claims; and
- discussed our findings with CMS and State agency officials.

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<sup>2</sup> *Review of Medicaid Administrative Costs Claimed for the Pennsylvania Department of Aging’s Healthy Steps Program (A-03-10-00205)* and *Review of Medicaid Administrative Costs Claimed for the Pennsylvania Department of Aging’s Direct Care Worker Initiative (A-03-10-00206)*.

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 objective.

## **FINDING AND RECOMMENDATIONS**

The State agency did not comply with Federal requirements when it claimed Initiative costs. The claimed costs were for training nursing home providers and not for the administration of the Medicaid program. Accordingly, the State agency's claims totaling \$6,001,929 (\$3,001,536 Federal share) in Initiative costs for State FYs 1996–1997 through 2010–2011 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: “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. Rather, Initiative costs were for training nursing home provider staff to improve the condition of nursing home residents. The provider training activities targeted reduction in the use of restraints, medication and chemical reduction, fall management and prevention, and pressure ulcer prevention and promoted the dignity of those suffering from dementia. CMS explicitly prohibits claiming costs for provider training, such as that supplied by Kendal for the Initiative, as administrative costs because they are not “for the proper and efficient administration of the [Medicaid] State plan.”

For State FYs 1996–1997 through 2010–2011, the State agency improperly claimed \$6,001,929 (\$3,001,536 Federal share) as Medicaid administrative costs for the Initiative.

## **RECOMMENDATIONS**

We recommend that the State agency:

- refund \$3,001,536 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**

In its written comments on our report, the State agency said that the Initiative costs were directly related to the administration of the Medicaid program and were therefore allowable Medicaid administrative costs. The State agency's comments are included in their entirety as Appendix B.

Based on our review, Initiative costs were for training nursing home provider staff and not costs to administer the Medicaid program. CMS explicitly prohibits claiming provider training as administrative costs. Nothing in the State agency's comments caused us to change our recommendations.

# **APPENDIXES**

**APPENDIX A: PENNSYLVANIA RESTRAINT REDUCTION INITIATIVE  
EXPENDITURES AND CLAIMED FEDERAL SHARE**

<b>State Fiscal Year</b>	<b>Total Expenditures</b>	<b>State Share</b>	<b>Claimed Federal Share</b>
1996–1997	\$169,643	\$101,786	\$67,857
1997–1998	182,990	80,876	102,114
1998–1999	277,849	132,008	145,841
1999–2000	275,558	137,779	137,779
2000–2001	320,974	160,487	160,487
2001–2002	347,806	173,903	173,903
2002–2003	405,803	202,901	202,902
2003–2004	424,755	212,377	212,378
2004–2005	425,296	212,648	212,648
2005–2006	426,503	213,251	213,252
2006–2007	499,096	249,548	249,548
2007–2008	526,091	263,046	263,045
2008–2009	551,307	275,653	275,654
2009–2010	617,901	308,951	308,950
2010–2011	550,357	275,179	275,178
<b>Total</b>	<b>\$6,001,929</b>	<b>\$3,000,393</b>	<b>\$3,001,536</b>

## APPENDIX B: STATE AGENCY COMMENTS



COMMONWEALTH OF PENNSYLVANIA

March 27, 2012

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-03-11-00209 entitled, "Pennsylvania Claimed Medicaid Administrative Costs for Provider Training." The objective of this audit was to determine whether the state agency complied with federal requirements when it claimed Medicaid administrative costs for the Pennsylvania Restraint Reduction Initiative.

**Office of Inspector General (OIG) Recommendation:** We recommend that the State agency refund \$3,001,536 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.

**Department of Public (DPW) Response:** The Pennsylvania Restraint Reduction Initiative (PARRI) is a program designed to assist nursing facilities to develop strong physical, medical and chemical restraint reduction processes. This program emphasizes individualized assessment of nursing home residents in order to find safe alternatives to physical restraints. This initiative is directed by a task force which is staffed by individuals from the Centers for Medicare and Medicaid Services, the Pennsylvania Department of Public Welfare, the Pennsylvania Department of Health, and representatives from nursing homes.

DPW continues to believe these activities are directly related to the administration of the Medicaid program and are thereby allowable. Since its inception, this program has greatly reduced the number of restraints utilized in Pennsylvania's nursing homes as measured by the Centers for Medicare and Medicaid Services' quality measures.

DEPUTY SECRETARY FOR ADMINISTRATION

Mr. Steven Virbitsky

-2-

Thank you for the opportunity to respond to this draft audit report. If you have questions or concerns regarding this response, please contact David R. Bryan, Audit Resolution Section, at (717) 783-7217 or via email at [davbryan@pa.gov](mailto:davbryan@pa.gov).

Sincerely,



Karen K. Deklinski  
Deputy Secretary for Administration

c: Mr. Robert Baiocco, Audit Manager