



Office of Audit Services, Region IV
61 Forsyth Street, SW, Suite 3T41
Atlanta, GA 30303

September 14, 2010

Report Number: A-04-07-07032

Mr. Thomas W. Arnold
Secretary
Agency for Health Care Administration
2727 Mahan Drive,
Mail Stop 1
Tallahassee, FL 32308

Dear Mr. Arnold:

Enclosed is the U.S. Department of Health & Human Services (HHS), Office of Inspector General (OIG), final report entitled *Review of Medicaid Funding for Emergency Services Provided to Nonqualified Aliens*. 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 Denise Novak, Audit Manager, at (305) 536-5309 extension 10 or through email at Denise.Novak@oig.hhs.gov. Please refer to report number A-04-07-07032 in all correspondence.

Sincerely,

/Peter J. Barbera/
Regional Inspector General
for Audit Services

Enclosure

Direct Reply to HHS Action Official:

Jackie Garner
Consortium Administrator
Consortium for Medicaid and Children's Health Operations (CMCHO)
Centers for Medicare & Medicaid Services
233 North Michigan Avenue, Suite 600
Chicago, Illinois 60601

Department of Health & Human Services

**OFFICE OF
INSPECTOR GENERAL**

**REVIEW OF MEDICAID FUNDING FOR
EMERGENCY SERVICES PROVIDED TO
NONQUALIFIED ALIENS**



Daniel R. Levinson
Inspector General

September 2010
A-04-07-07032

Office of Inspector General

<http://oig.hhs.gov>

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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

Section 1903(v) of the Social Security Act states that Federal Medicaid funding is available to States for medical services provided to aliens who are not lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law only when those services are necessary to treat an emergency medical condition. Further, 42 CFR § 440.255 states that Federal Medicaid funding is available to States for medical services provided to aliens granted lawful temporary resident status or lawful permanent resident status and who meet all other requirements for Medicaid only when those services are necessary to treat an emergency medical condition.

In Florida, the Agency for Health Care Administration (State agency) administers the Medicaid program. The State agency reimburses providers for emergency medical services provided to nonqualified aliens under the Emergency Medicaid for Aliens (EMA) program. The Florida Administrative Code, section 409.901(9) and (10), uses the definition of an emergency medical condition contained in Federal regulations. The State agency has policies and procedures for the EMA program that are contained in various policy manuals, which explain the Medicaid for Aliens program, Emergency Medical Condition, Emergency Services and Care, and benefit limits for EMA program. To qualify for the EMA program, an individual must meet all eligibility requirements for the Medicaid program as described in the *Florida Department of Children & Families Economic Self-Sufficiency Policy Manual*. The Florida Department of Children & Families is responsible for determining the eligibility of the individuals.

During our audit period (July 1, 2005, through June 30, 2007), the State agency processed claims totaling approximately \$411.7 million (\$242.3 million Federal share) for medical services provided to undocumented aliens.

OBJECTIVE

Our objective was to determine whether the State agency claimed for Federal reimbursement only services for nonqualified aliens that it approved or defined as emergency medical conditions.

SUMMARY OF FINDINGS

The State agency did not adequately ensure that it claimed for Federal reimbursement only services for nonqualified aliens that it approved or defined as emergency medical conditions. Of the 391 claims we reviewed, 355 totaling \$2,277,849 met the State's definition of emergency services. However, services contained on 33 claims totaling \$97,611 (\$57,417 Federal share) did not meet the definition of emergency services and were therefore ineligible for reimbursement. Additionally, some services contained on the remaining three claims did not meet the definition of emergency services, but, at the time of our review, the State agency was unable to determine

the portion of those claims that was applicable to non-emergency services. During our audit period, the State agency relied on two medical staff to review approximately 4,000 such claims per month, and this limited review was not sufficient to prevent some unallowable claims from being paid.

RECOMMENDATIONS

We recommend that the State agency:

- adjust the *Quarterly Medicaid Statement of Expenditures for the Medical Assistance Program* (Form CMS-64) for the \$57,417 (Federal share) claimed for services that did not meet the State's definition of emergency care,
- review three claims for which it received Federal reimbursement for non-emergency procedures performed concurrent with the treatment of emergency conditions to determine the Federal share attributable to the non-emergency services and adjust the Form CMS-64 accordingly, and
- improve existing controls to assure that all claims for services provided to undocumented aliens are for conditions that the State agency defines as emergency services.

STATE AGENCY COMMENTS

In written comments on our draft report, the State agency concurred with our recommendations and described its actions to address the weaknesses that we identified. The State agency's comments are included in their entirety as the Appendix.

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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 low income 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.

Federal Emergency Medicaid Funding for Aliens

Section 1903(v) of the Act states that Federal Medicaid funding is available to States for medical services provided to aliens who are not lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law only when those services are necessary to treat an emergency medical condition. Further, 42 CFR § 440.255 states that Federal Medicaid funding is available to States for medical services provided to aliens granted lawful temporary resident status or lawful permanent resident status and who meet all other requirements for Medicaid only when those services are necessary to treat an emergency medical condition.

Section 1903(v) of the Act and 42 CFR § 440.255 define an emergency medical condition as one manifested by acute symptoms of such severity that the absence of immediate medical attention could reasonably be expected to result in (1) placing the patient's health in serious jeopardy, (2) serious impairment to bodily functions, or (3) serious dysfunction of any body part or organ. Further, 42 CFR § 440.255 specifies that there must be "sudden onset" of the condition. In addition, 42 CFR § 440.255 states that Federal Medicaid funding is available to States for services provided to pregnant women if a provision is included in the approved State plan. These services include routine prenatal care, labor and delivery, and routine postpartum care.

State Emergency Funding for Aliens

In Florida, the Agency for Health Care Administration (State agency) administers the Medicaid program. The State agency reimburses providers for emergency medical services provided to aliens under the Emergency Medicaid for Aliens (EMA) program. Florida's State plan limits coverage of aliens to care and services necessary to treat an emergency condition. The *Florida Administrative Code*, section 409.901 (9) and (10), uses the definition of an emergency medical condition contained in Federal regulations. More specifically, section 409.901 states:

"Emergency medical condition" means: (a) A medical condition manifesting itself by acute symptoms of sufficient severity, which may include severe pain or other acute symptoms, such that the absence of immediate medical attention could

reasonably be expected to result in any of the following: (1) Serious jeopardy to the health of a patient, including a pregnant woman or a fetus. (2) Serious impairment to bodily functions. (3) Serious dysfunction of any bodily organ or part.

The State agency has policies and procedures for the EMA program that are contained in various policy handbooks explaining the Medicaid for Aliens program, Emergency Medical Condition, Emergency Services and Care, limitations on benefits for EMA program, and the CMS-1500 claim form.

The *Florida Medicaid Provider Reimbursement Handbook* states that Medicaid coverage of inpatient services for non-qualified, non-citizens is limited to emergencies, newborn delivery services, and dialysis services.

The State agency also has a list of services that are never to be paid when they are considered routine in nature and are not related to an emergency medical condition. The list includes the following: prenatal and postpartum care, sterilization by any method, treatment for chronic diseases, chemotherapy, transplants, and outpatient IV therapy.

The Department of Children & Families determines Medicaid eligibility for the EMA program. Medical assistance for non-citizens, who are Medicaid eligible except for their citizenship status, may be eligible for Medicaid to cover a serious medical emergency. This includes the emergency labor and delivery of a child. Before Medicaid may be authorized, applicants must provide proof from a medical professional stating the treatment was due to an emergency condition and must include the dates of the emergency. Eligible individuals are certified for a minimum of 1 month and receive a medical assistance identification card. The State agency may renew the certification for certain medical conditions.

The State agency contracts with Affiliated Computer Services to operate its Medicaid Management Information System (MMIS) to process Medicaid claims including EMA claims. The MMIS processes claims based on eligibility information in the State agency's Automated Client Eligibility System.

OBJECTIVE, SCOPE, AND METHODOLOGY

Objective

Our objective was to determine whether the State agency claimed for Federal reimbursement only services for nonqualified aliens that it approved or defined as emergency medical conditions.

Scope

We reviewed a judgmental sample of 391 claims totaling \$2,448,918. During our audit period, July 1, 2005, through June 30, 2007, the State agency processed 70,823 institutional claims totaling approximately \$236 million (\$139 million Federal share) for medical services provided

to undocumented aliens. We limited our review to the EMA program's internal controls over claims for medical services provided to undocumented aliens.

We performed our fieldwork at the State agency in Tallahassee, Florida, and at selected medical providers.

Methodology

To accomplish our objective, we:

- reviewed applicable Federal and State laws and regulations and the State plan;
- reviewed the State agency's existing edits in the MMIS system and discussed with the medical review staff the nature and scope of their review function;
- reviewed the State agency's policies and procedures and EMA program instructions related to the payment of claims for emergency medical services provided to undocumented aliens;
- interviewed selected medical providers and personnel from the State agency, Region IV CMS, and Florida Department of Children & Families; and
- judgmentally selected 391 claims totaling \$2,448,918.

An emergency room nurse working for CMS Region IV reviewed all 391 of these claims, and the State agency's medical staff members, who make eligibility determinations for this program, reviewed the claims with questioned services. The purpose of the reviews was to obtain the reviewers' professional opinions whether the services contained in these claims met the definition of emergency services.

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.

FINDINGS AND RECOMMENDATIONS

The State agency did not adequately ensure that it claimed for Federal reimbursement only services for nonqualified aliens that it approved or defined as emergency medical conditions. Of the 391 claims we reviewed, 355 totaling \$2,277,849 met the State's definition of emergency services. However, services contained on 33 claims totaling \$97,611 (\$57,417 Federal share) did not meet the definition of emergency services and were therefore ineligible for reimbursement. Additionally, some services contained on the remaining three claims did not meet the definition of emergency services, but, at the time of our review, the State agency was unable to determine the portion of those claims that was applicable to non-emergency services. During our audit

period, the State agency relied on two medical staff to review approximately 4,000 such claims per month, and this limited review was not sufficient to prevent some unallowable claims from being paid.

IMPROPER CLAIMS FOR NON-EMERGENCY SERVICES

The State agency claimed Federal reimbursement for 36 claims that, in total or in part, did not meet the definition of emergency services and were therefore ineligible. These claims represented the following:

- Thirty-two claims totaling \$97,234 (\$57,195 Federal share) were for routinely scheduled visits through emergency room departments to receive: chemotherapy, obstetric and gynecological treatment, and gamma globulin and antibiotic injections.
- One claim totaling \$377 (\$222 Federal share) was for medical services related to a liver transplant, which is specifically excluded from coverage under the EMA program.
- Three claims were for a combination of non-emergency services performed concurrent with the treatment of emergency conditions. The non-emergency services included removal of a tattoo and two elective tubal ligations. At the time of our review, the State agency was unable to determine the Federal reimbursement attributable to the non-emergency services identified in the review.

Internal Controls Need Improvement

The State agency's internal controls were not adequate to prevent these 36 claims from being paid as emergency services. The State agency used an edit to identify claims for undocumented aliens. Once flagged by the edit, the State agency required its medical staff to manually review all such claims to approve or deny payment. The State agency said that its medical staff consisted of two employees who review approximately 4,000 claims per month. These controls were not sufficient to prevent all improper claims. The State agency had another edit on its system; however, it was not using the edit during our audit period. This edit (Edit 04131, "Admin Type") classifies the nature and necessity of hospital admissions. The edit classifies claims under one of the following five options: (1) emergency, (2) urgent, (3) elective, (4) newborn, and (5) information not available. If active, this edit may have ensured that the State agency properly claimed Federal reimbursements.

RECOMMENDATIONS

We recommend that the State agency:

- adjust the *Quarterly Medicaid Statement of Expenditures for the Medical Assistance Program* (Form CMS-64) for the \$57,417 (Federal share) claimed for services that did not meet the State's definition of emergency care,

- review three claims for which it received Federal reimbursement for non-emergency procedures performed concurrent with the treatment of emergency conditions to determine the Federal share attributable to the non-emergency services and adjust the Form CMS-64 accordingly, and
- improve existing controls to assure that all claims for services provided to undocumented aliens are for conditions that the State agency defines as emergency services.

STATE AGENCY COMMENTS

In written comments on our draft report, the State agency concurred with our recommendations and described its actions to address the weaknesses that we identified. The State agency's comments are included in their entirety as the Appendix.

OTHER MATTER

Emergency status for dialysis services is not defined in the *Florida Administrative Code* or the *State Plan*. However, the *Florida Medicaid Provider Reimbursement Handbook* establishes coverage for dialysis services. Therefore, the State agency considers dialysis to be covered services for the EMA program. Accordingly, the State agency automatically pays dialysis claims. Of the 391 claims we reviewed, 213 were for dialysis services totaling \$86,718 (\$51,066 Federal share).

APPENDIX

APPENDIX: STATE AGENCY COMMENTS



CHARLIE CRIST
GOVERNOR

THOMAS W. ARNOLD
SECRETARY

August 5, 2010

Mr. Peter J. Barbera
Regional Inspector General
Office of Audit Services, Region IV
61 Forsyth Street, SW Suite 3T41
Atlanta, Georgia 30303

Dear Mr. Barbera:

Thank you for the opportunity to respond to the draft report entitled *Review of Medicaid Funding for Emergency Services Provided to Nonqualified Aliens (Report # A-04-07-07032)*. Please see the attached response table. We appreciate the efforts of your staff during the course of this audit.

If you have any questions regarding our response, please contact [REDACTED] Acting Audit Director, at (850) 412-3980

Sincerely,

A handwritten signature in cursive script, appearing to read "TWA", is positioned above the typed name.

Thomas W. Arnold
Secretary

TWA/dr
Enclosure



Office of Inspector General -- The deleted text has been redacted because it is personally identifiable information.

Agency for Health Care Administration
 Response to HHS/OIG Draft Report
 Review of Medicaid Funding for Emergency Services Provided to
 Nonqualified Aliens

Finding #1	Recommendation	Management Response	Statement of Concurrence	Anticipated Completion Date & Contact
<p>The State agency did not adequately ensure that it claimed for Federal reimbursement only services for nonqualified aliens that it approved or defined as emergency medical conditions. Of The 391 claims we reviewed, 355 totaling \$2,277,849 met the State's definition of emergency services. However, services contained on 33 claims totaling \$97,611 (\$57,417 Federal share) did not meet the definition of emergency services and were therefore ineligible for reimbursement. Additionally, some services contained on the remaining three claims did not meet the definition of emergency</p>	<p>We recommend that the State agency:</p> <ul style="list-style-type: none"> <input type="checkbox"/> adjust the <i>Quarterly Medicaid Statement of Expenditures for the Medical Assistance Program</i> (Form CMS-64) for the \$57,417 (Federal share) claimed for services that did not meet the State's definition of emergency care, <input type="checkbox"/> review three claims for which it received Federal reimbursement for non-emergency procedures performed concurrent with the treatment of emergency conditions to determine the Federal share attributable to the non-emergency services and adjust the Form CMS-64 accordingly, and <input type="checkbox"/> improve existing controls to assure that all claims for services provided to undocumented aliens 	<p>The Agency's contracted quality improvement organization began reviewing all requests for Medicaid reimbursement of inpatient emergency services for undocumented aliens on July 1, 2010. These reviews determine the point at which the emergency no longer exists, consistent with federal regulations, and deny Medicaid reimbursement for the remainder of the inpatient stay.</p> <p>The Agency is also undertaking a retrospective review of all inpatient alien claims from July 2005 through June 30, 2010 to</p>	<p>Concur</p>	<p>7/1/2010 </p>

**Agency for Health Care Administration
 Response to HHS/OIG Draft Report
 Review of Medicaid Funding for Emergency Services Provided to
 Nonqualified Aliens**

Finding #1	Recommendation	Management Response	Statement of Concurrence	Anticipated Completion Date & Contact
<p>services, but, at the time of our review, the State agency was unable to determine the portion of those claims that was applicable to non-emergency services. During our audit period, the State agency relied on two medical staff to review approximately 4,000 such claims per month, and this limited review was not sufficient to prevent some unallowable claims from being paid.</p>	<p>are for conditions that the State agency defines as emergency services.</p>	<p>determine point of stabilization. Any payments made in error will be recouped, and the federal share will be adjusted on the Form CMS-64. The retrospective reviews will begin October 1, 2010.</p>		