



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of Inspector General

Washington, D.C. 20201

January 24, 2011

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

FROM: /Joe Green/ for
George M. Reeb
Acting Deputy Inspector General for Audit Services

SUBJECT: Review of Alabama's Compliance With the Reserve or Rainy Day Fund Requirement for the Increased Federal Medical Assistance Percentage Under the American Recovery and Reinvestment Act (A-04-10-03058)

Attached, for your information, is an advance copy of our final report on Alabama's compliance with the reserve fund requirement for the increased Federal medical assistance percentage under the American Recovery and Reinvestment Act. We will issue this report to the Alabama Medicaid Agency 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 Robert A. Vito, Acting Assistant Inspector General for the Centers for Medicare & Medicaid Audits, at (410) 786-7104 or through email at Robert.Vito@oig.hhs.gov or Peter J. Barbera, Regional Inspector General for Audit Services, Region IV, at (404) 562-7750 or through email at Peter.Barbera@oig.hhs.gov. Please refer to report number A-04-10-03058.

Attachment



Office of Audit Services, Region IV
61 Forsyth Street, S.W., Suite 3141
Atlanta, GA 30303

January 26, 2011

Report Number: A-04-10-03058

R. Bob Mullins, Jr., M.D.
Director
Alabama Medicaid Agency
501 Dexter Avenue
P.O. Box 5624
Montgomery, AL 36103-5624

Dear Dr. Mullins:

Enclosed is the U.S. Department of Health & Human Services (HHS), Office of Inspector General (OIG), final report entitled *Review of Alabama's Compliance With the Reserve or Rainy Day Fund Requirement for the Increased Federal Medical Assistance Percentage Under the American Recovery and Reinvestment Act*. 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-04-10-03058 in all correspondence.

Sincerely,

/Peter J. Barbera/
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 & Human Services

**OFFICE OF
INSPECTOR GENERAL**

**REVIEW OF ALABAMA'S COMPLIANCE
WITH THE RESERVE OR RAINY DAY
FUND REQUIREMENT FOR THE
INCREASED FEDERAL MEDICAL
ASSISTANCE PERCENTAGE UNDER
THE AMERICAN RECOVERY AND
REINVESTMENT ACT**



Daniel R. Levinson
Inspector General

January 2011
A-04-10-03058

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:

Office of Audit Services

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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The Office of Evaluation and Inspections (OEI) conducts national evaluations to provide HHS, Congress, and the public with timely, useful, and reliable information on significant issues. These evaluations focus on preventing fraud, waste, or abuse and promoting economy, efficiency, and effectiveness of departmental programs. To promote impact, OEI reports also present practical recommendations for improving program operations.

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The Office of Counsel to the Inspector General (OCIG) provides general legal services to OIG, rendering advice and opinions on HHS programs and operations and providing all legal support for OIG's internal operations. OCIG represents OIG in all civil and administrative fraud and abuse cases involving HHS programs, including False Claims Act, program exclusion, and civil monetary penalty cases. In connection with these cases, OCIG also negotiates and monitors corporate integrity agreements. OCIG renders advisory opinions, issues compliance program guidance, publishes fraud alerts, and provides other guidance to the health care industry concerning the anti-kickback statute and other OIG enforcement authorities.

Notices

THIS REPORT IS AVAILABLE TO THE PUBLIC
at <http://oig.hhs.gov>

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 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.

Pursuant to section 1905(b) of the Act, the Federal Government pays its share of a State's medical assistance expenditures under Medicaid based on the Federal medical assistance percentage (FMAP), which varies depending on the State's relative per capita income. Although FMAPs are adjusted annually for economic changes in the States, Congress may increase FMAPs at any time.

Temporary Increases in Federal Medical Assistance Percentages

The American Recovery and Reinvestment Act of 2009 (Recovery Act), P.L. No. 111-5, enacted February 17, 2009, provides, among other initiatives, fiscal relief to States to protect and maintain State Medicaid programs in a period of economic downturn. For the recession adjustment period (October 1, 2008, through December 31, 2010), the Recovery Act will provide an estimated \$87 billion in additional Medicaid funding based on temporary increases in States' FMAPs.

Section 5000 of the Recovery Act provides these increases to help avert cuts in health care provider payment rates, benefits, or services and to prevent changes in income eligibility requirements that would reduce the number of individuals eligible for Medicaid. However, pursuant to § 5001(f)(3) of the Recovery Act, a State is not eligible for the increased FMAP if any amounts attributable (directly or indirectly) to such an increase are deposited or credited into any reserve, or rainy day, fund.

Alabama's Temporary Increase in Federal Medical Assistance Percentage

In accordance with provisions in the Recovery Act, CMS made \$354.1 million in additional Medicaid funding available to the Alabama Medicaid Agency (State agency) for fiscal year (FY) 2009 (October 2008 through September 2009). For the first 2 quarters of FY 2009, CMS increased the State agency's FMAP by 8.66 percent, from 67.98 percent to 76.64 percent. For the last 2 quarters of FY 2009, CMS increased the State agency's FMAP by an additional 0.87 percent, from 76.64 percent to 77.51 percent.

Alabama's Reserve or Rainy Day Accounts

Within the Alabama Trust Fund, the Alabama Treasury Department maintains two reserve accounts: the Education Trust Fund Rainy Day Account and the General Fund Rainy Day Account. Alabama created these accounts in the event that revenues were not sufficient to fund State appropriations.

OBJECTIVE, SCOPE, AND METHODOLOGY

Objective

Our objective was to determine whether the State agency complied with the Recovery Act reserve or rainy day fund requirement for receiving the increased FMAP.

Scope

We reviewed the State agency's use of the additional Medicaid funding for FY 2009. We did not review the State agency's overall internal control structure. We limited our review to obtaining an understanding of the procedures that the State agency used when allocating FMAP funding.

We performed fieldwork at the State agency, the CMS Regional Office in Atlanta, and the State Legislative Budget Office in Montgomery, Alabama, from May to September 2010.

Methodology

To accomplish our objective, we:

- reviewed applicable Federal laws and regulations and CMS guidance,
- reviewed Alabama's A-133 audit reports for FYs 2008 and 2009 for findings related to our objective,
- interviewed the State agency's chief financial officer regarding the amount of Recovery Act funding for the audit period,
- interviewed officials of the State Legislative Budget Office about the use of State appropriations that were not required because of the increased FMAP,
- obtained from officials of the State Legislative Budget Office information showing the deposits that the State made into its two rainy day funds,
- obtained and reviewed information from the State's Central Accounting System that showed the use of State Medicaid funds, and
- determined the amount of Recovery Act funds that the State agency drew from the Federal Treasury for the audit period and compared it with amounts reported to CMS as Medicaid expenditures.

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.

RESULTS OF REVIEW

The State agency complied with the Recovery Act reserve or rainy day fund requirement for receiving increased FMAP. Specifically, the State agency did not use additional Medicaid funding to supplement any reserve or rainy day account. Therefore, we have no recommendations.

However, as discussed below, the State agency drew Federal Recovery Act funds that exceeded the amount of the Recovery Act expenditures reported on its Quarterly Statements of Expenditures for the Medical Assistance Program (CMS-64 reports) for the audit period. The State agency did not provide an explanation for the excessive drawdown of Recovery Act funds.

OTHER MATTER

During FY 2009, the State agency drew Recovery Act funds totaling \$354,083,748 but reported on its CMS-64 reports Recovery Act expenditures of \$351,688,224, a difference of \$2,395,524. Federal regulations (45 CFR § 92.21(b)(c)) require that award recipients draw Federal funds as closely as possible to actual needs.

We also noted that the Alabama State Examiners of Public Accounts reported in its A-133 audit report for FY 2008 that “[e]rrors in the [State agency’s] cashbook have been noted in the past causing the inaccurate forecasting of cash needs and drawing of [F]ederal funds.”

We did not find any evidence that CMS had reconciled the State’s drawdowns to its expenditures and made appropriate adjustments. In addition, the State agency did not provide an explanation for the difference in the amount of Federal funds drawn and reported as expended; we requested an explanation multiple times. Consequently, we were unable to determine whether the excessive drawdowns were used for allowable Recovery Act purposes.