



DEPARTMENT OF HEALTH AND HUMAN SERVICES
OFFICE OF AUDIT SERVICES
233 NORTH MICHIGAN AVENUE
CHICAGO, ILLINOIS 60601

REGION V
OFFICE OF
INSPECTOR GENERAL

Report Number: A-05-05-00051 June 13, 2006

Barry Maram, Director
Department of Healthcare and Family Services
201 S. Grand Avenue, E, FL 003
Springfield, Illinois 62763

Dear Mr. Maram:

Enclosed are two copies of the U.S. Department of Health and Human Services (HHS), Office of Inspector General (OIG) report entitled "Audit of Illinois' Medicaid Payments for Skilled Professional Medical Personnel for the Period October 1, 2003, Through September 30, 2004." A copy of this report will be forwarded to the action official noted below for his/her review and any action deemed necessary.

Final determination as to actions taken on all matters reported will be made by the HHS action official named below. We request that you respond to the HHS action 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.

In accordance with the principles of the Freedom of Information Act (5 U.S.C. 552, as amended by Public Law 104-231), OIG reports issued to the department's grantees and contractors are made available to members of the press and general public to the extent information contained therein is not subject to exemptions in the Act which the department chooses to exercise. (See 45 CFR Part 5.)

To facilitate identification, please refer to report number A-05-05-00051 in all correspondence relating to this report.

Sincerely,

A handwritten signature in cursive script that reads "Paul Swanson".

Paul Swanson
Regional Inspector General
for Audit Services

Enclosures

Direct Reply to HHS Action Official:

Associate Regional Administrator for Medicaid
Centers for Medicare & Medicaid Services, Region V
233 North Michigan Avenue, Suite 600
Chicago, Illinois 60601

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**AUDIT OF ILLINOIS' MEDICAID
PAYMENTS FOR SKILLED
PROFESSIONAL MEDICAL
PERSONNEL FOR THE PERIOD
OCTOBER 1, 2003 THROUGH
SEPTEMBER 30, 2004**



Daniel R. Levinson
Inspector General

June 2006
A-05-05-00051

Office of Inspector General

<http://oig.hhs.gov>

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OAS FINDINGS AND OPINIONS

The designation of financial or management practices as questionable or a recommendation for the disallowance of costs incurred or claimed, as well as other conclusions and recommendations in this report, represent the findings and opinions of the HHS/OIG/OAS. Authorized officials of the HHS divisions will make final determination on these matters.



EXECUTIVE SUMMARY

BACKGROUND

Title XIX of the Social Security Act provides Federal reimbursement to States for administrative costs necessary to properly and efficiently administer State Medicaid plans. In Illinois, the Department of Healthcare and Family Services (State agency) administers the State's Medicaid program by incurring administrative costs at the state level. The State agency also claims administrative costs incurred by school based programs. These administrative costs are reimbursed, or matched, by the Federal Government at a rate of 50 percent. However, an enhanced Medicaid matching rate of 75 percent is available for the compensation and training of skilled professional medical personnel and their supporting staff.

For the enhanced rate to be available, skilled professional medical personnel must complete a 2-year program leading to an academic degree or certificate in a medically related program, perform activities that require the use of their professional training and experience, and have a documented employer-employee relationship with the Medicaid agency. Although enhanced reimbursement was previously available for skilled professional medical personnel working for school based programs, the Centers for Medicare & Medicaid Services (CMS), which oversees the Medicaid program at the Federal level, no longer accepts claims for school based administrative costs at the enhanced rate.

We reviewed the State agency's claim for skilled professional medical personnel totaling \$15,920,111 for the period October 1, 2003, through September 30, 2004 (line 3 of the CMS-64.10 form). These administrative costs consisted of \$6,459,292 incurred at the State agency level and \$9,460,819 for school based costs. We limited our review to determining whether the State agency's claims for skilled professional medical personnel qualified for the 75-percent enhanced rate. We did not determine the allowability of costs claimed at the 50-percent rate.

In Illinois, the State agency employed skilled professional medical personnel and contracted with outside individuals and companies through its Office of Inspector General to provide additional skilled professional medical personnel. The State agency also claimed enhanced reimbursement for skilled professional medical staff employed by school based programs.

OBJECTIVE

The audit objective was to determine whether the State agency properly claimed Medicaid funding at the 75 percent enhanced Federal funding rate for skilled professional medical personnel.

SUMMARY OF FINDINGS

The State agency improperly claimed enhanced reimbursement for skilled professional medical personnel costs totaling \$250,592 (\$62,648 Federal share) for wage and travel expenses for 56 contractors that were not State agency employees. In addition, the State agency improperly classified and claimed \$9,460,819 (\$2,365,205 Federal share) in school based administrative

costs as skilled professional medical personnel. Although CMS disallowed enhanced reimbursement for these claims, the State agency did not reclassify and reduce its claim for skilled professional medical personnel.

We attribute the unallowable State agency administrative claims to a lack of sufficient monitoring necessary to ensure that only qualified individuals were claimed as skilled professional medical personnel. The improperly classified and claimed school based administrative costs resulted from the State's failure to follow CMS's guidance, effective January 1, 2003, that prohibited States from claiming school based administrative costs as skilled professional medical personnel costs.

RECOMMENDATIONS

We recommend that the State agency:

- refund the enhanced Federal share of \$62,648 claimed for non-State agency employees that were ineligible for enhanced reimbursement as skilled professional medical personnel;
- develop and implement procedures to ensure only qualifying individuals are claimed as skilled professional medical personnel; and
- reclassify the \$9,460,819 in school based administrative costs inappropriately claimed for enhanced reimbursement as skilled professional medical personnel and appropriately charge those costs as other Medicaid administrative costs.

In a written response dated May 26, 2006, Illinois officials agreed to refund \$62,648 and develop and implement procedures to ensure only qualifying individuals are claimed as skilled professional medical personnel. The State did not agree with our recommendation to reclassify the \$9,460,819 in school based administrative costs. The State believes that school based administrative costs for skilled professional medical personnel are eligible for enhanced reimbursement despite the fact that CMS explicitly stated that these costs are not eligible for enhanced reimbursement per the CMS State Medicaid Director Letter #02-018.

The response is summarized in the body of the report and is included in its entirety as an Appendix to the report.

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INTRODUCTION

BACKGROUND

Title XIX of the Social Security Act provides Federal reimbursement to States for administrative costs necessary to properly and efficiently administer State Medicaid plans. In Illinois, the Department of Healthcare and Family Services (State agency) administers the State's Medicaid program by incurring administrative costs at the state level. These administrative costs are reimbursed, or matched, by the Federal Government at a rate of 50 percent. However, an enhanced Medicaid matching rate of 75 percent is available for the compensation and training of skilled professional medical personnel and their supporting staff.

For the enhanced rate to be available, skilled professional medical personnel must complete a 2-year program leading to an academic degree or certificate in a medically related program, perform activities that require the use of their professional training and experience, and have a documented employer-employee relationship with the Medicaid agency. Although enhanced reimbursement was previously available for skilled professional medical personnel working for school based programs, the Centers for Medicare & Medicaid Services (CMS), which oversees the Medicaid program at the Federal level, no longer accepts claims for school based administrative costs at the enhanced rate.

In Illinois, the State agency employed skilled professional medical personnel and contracted with outside individuals and companies through its Office of Inspector General to provide additional skilled professional medical personnel. The State agency also claimed enhanced reimbursement for skilled professional medical staff employed by school based programs.

OBJECTIVE, SCOPE, AND METHODOLOGY

Objective

The audit objective was to determine whether the State agency properly claimed Medicaid funding at the 75 percent enhanced Federal funding rate for skilled professional medical personnel.

Scope

We reviewed the State agency's claim for skilled professional medical personnel totaling \$15,920,111 for the period October 1, 2003, through September 30, 2004 (line 3 of the CMS-64.10 form). These administrative costs consisted of \$6,459,292 incurred at the State agency level and \$9,460,819 for school based costs. We limited our review to determining whether the State agency's claims for skilled professional medical personnel qualified for the 75-percent enhanced rate. We did not determine the allowability of costs claimed at the 50-percent rate.

We did not perform a detailed review of the State agency's internal controls. We limited our review to obtaining an understanding of the State agency's policies and procedures used to claim skilled professional medical personnel costs.

We performed fieldwork at the State agency in Springfield, Illinois from July through August 2005.

Methodology

To accomplish the audit objective, we:

- reviewed applicable Federal regulations and CMS guidance;
- reviewed State agency procedures for claiming skilled professional medical personnel costs;
- obtained and reviewed supporting documentation from the State agency including cost accounting reports, payroll records, invoices and disbursement documents relating to payments made to contractors;
- reconciled supporting documentation to the expenditures reported on line 3 of the CMS 64.10;
- reviewed medical licensure and certification information to ensure the employees claimed as skilled professional medical personnel met Federal requirements;
- reviewed position descriptions and/or contracts for individuals claimed as skilled professional medical personnel and directly supporting staff; and
- interviewed skilled professional medical personnel and directly supporting staff.

We performed the audit in accordance with generally accepted government auditing standards.

FINDINGS AND RECOMMENDATIONS

The State agency improperly claimed enhanced reimbursement for skilled professional medical personnel costs totaling \$250,592 (\$62,648 Federal share) for wage and travel expenses for 56 contractors that were not State agency employees. In addition, the State agency improperly classified and claimed \$9,460,819 (\$2,365,205 Federal share) in school based administrative costs as skilled professional medical personnel. Although CMS disallowed enhanced reimbursement for these claims, the State agency did not reclassify and reduce its claim for skilled professional medical personnel.

We attribute the unallowable State agency administrative claims to a lack of sufficient monitoring necessary to ensure that only qualified individuals were claimed as skilled

professional medical personnel. The improperly classified and claimed school based administrative costs resulted from the State's failure to follow CMS's guidance, effective January 1, 2003, that prohibited States from claiming school based administrative costs as skilled professional medical personnel costs.

REQUIREMENTS FOR SKILLED PROFESSIONAL MEDICAL PERSONNEL

Section 1903(a)(2) of the Social Security Act provides that States are entitled to an amount equal to 75 percent of sums expended for compensation or training of skilled professional medical personnel and staff supporting such personnel.

Skilled professional medical personnel are defined in 42 CFR § 432.2 as:

. . . physicians, dentists, nurses, and other specialized personnel who have professional education and training in the field of medical care or appropriate medical practice and who are in an employer-employee relationship with the Medicaid agency. It does not include other nonmedical health professionals such as public administrators, medical analysts, lobbyists, senior managers or administrators of public assistance programs or the Medicaid program.

Regulations at (42 CFR § 432.50(a)) state that Federal matching funds are available "for salary or other compensation, fringe benefits, travel, per diem, and training, at rates determined on the basis of the individual's position"

In addition, 42 CFR § 432.50(d) states that the enhanced matching rate of 75 percent is available for skilled professional medical personnel and directly supporting staff if the following criteria are met:

- (i) The expenditures are for activities that are directly related to the administration of the Medicaid program, and as such do not include expenditures for medical assistance;
- (ii) The skilled professional medical personnel have professional education and training in the field of medical care or appropriate medical practice. "Professional education and training" means the completion of a 2-year or longer program leading to an academic degree or certificate in a medically related profession. This is demonstrated by possession of a medical license, certificate, or other document issued by a recognized National or State medical licensure or certifying organization or a degree in a medical field issued by a college or university certified by a professional medical organization . . . ;
- (iii) The skilled professional medical personnel are in positions that have duties and responsibilities that require those professional medical knowledge and skills;

- (iv) A State-documented employer-employee relationship exists between the Medicaid agency and the skilled professional medical personnel and directly supporting staff; and
- (v) The directly supporting staff are secretarial, stenographic, and copying personnel and file and records clerks who provide clerical services that are directly necessary for the completion of the professional medical responsibilities and functions of the skilled professional medical staff. The skilled professional medical staff must directly supervise the supporting staff and the performance of the supporting staff's work.

The CMS' State Medicaid Director Letter # 02-018 states "...effective January 1, 2003, the enhanced Federal matching rate of 75 percent will no longer be available for the activities performed by SPMP school staff." The letter continues that the school staff's advanced skills and training are not necessary in order to perform the types of administrative activities that take place in school settings. The Medicaid-related administrative activities performed in the school setting may be claimable at the regular 50 percent Federal matching rate for administration under Medicaid, but not as skilled professional medical personnel costs.

NOT STATE AGENCY EMPLOYEES

The State agency improperly claimed Federal funds at the 75 percent enhanced matching rate for salaries and travel expenses of 56 contractors that were not State agency employees. As a result, the State agency claimed unallowable enhanced reimbursement for skilled professional medical personnel costs totaling \$250,592 (\$62,648 Federal share).

Wages and travel expenses were unallowable because there was not an employer-employee relationship with the State agency. Regulations at 42 CFR § 432.50(d) require that a State-documented employer-employee relationship exists between the Medicaid agency and the skilled professional medical personnel and directly supporting staff. The State agency's Office of Inspector General contracted with medical professionals for various services including, but not limited to, reviewing client records for quality of care issues, on-site review of practitioners and serving as expert witnesses. The State's contract with the medical professionals states:

The Vendor shall be an independent contractor. Equipment and/or supplies provided and/or services performed pursuant to this Contract are not rendered as an employee of the Agency/Buyer or of the State of Illinois. Amounts paid pursuant to this Contract do not constitute compensation paid to an employee.

The contract language confirms that these medical professionals are not employees of the State. Therefore, costs associated with the medical professionals cannot be claimed at the enhanced reimbursement rate.

Causes of Unallowable Claims for Enhanced Reimbursement

We attribute the unallowable State agency administrative claims to a lack of sufficient monitoring necessary to ensure that only qualified individuals were claimed as skilled professional medical personnel.

IMPROPERLY CLASSIFIED AND CLAIMED COSTS

The State agency improperly classified \$9,460,819 of school based administrative costs as skilled professional medical personnel costs and claimed the enhanced Federal reimbursement rate. Per CMS' State Medicaid Director Letter #02-018, effective January 1, 2003, the enhanced Federal matching rate was no longer available for the activities performed by school based staff.

Despite the guidance provided by CMS, the State agency continued to claim school based administrative costs as skilled professional medical personnel. Although CMS Regional staff disallowed the enhanced reimbursement rate, the school based administrative costs were not reclassified and removed from the skilled professional medical personnel cost category. The State's failure to follow CMS's guidance prohibiting States from claiming school based administrative costs as skilled professional medical personnel costs resulted in the improperly classified claim for school based administrative costs. Since CMS disallowed the enhanced reimbursement for these costs, we have not requested a refund of the Federal share.

RECOMMENDATIONS

We recommend that the State agency:

- refund the enhanced Federal share of \$62,648 claimed for non-State agency employees that were ineligible for enhanced reimbursement as skilled professional medical personnel;
- develop and implement procedures to ensure only qualifying individuals are claimed as skilled professional medical personnel; and
- reclassify the \$9,460,819 in school based administrative costs inappropriately claimed for enhanced reimbursement as skilled professional medical personnel and appropriately charge those costs as other Medicaid administrative costs.

STATE AGENCY COMMENTS AND OIG RESPONSE

The State agency agreed with our recommendations to refund \$62,648 and develop and implement procedures to ensure only qualifying individuals are claimed as skilled professional medical personnel.

The State agency disagreed with our recommendation to reclassify \$9,460,819 in school based administrative costs. The State believes that school based administrative costs for skilled professional medical personnel are eligible for enhanced reimbursement. The State agency is challenging CMS' decision to deny their claim at the enhanced rate for school based administrative costs and has appealed the decision to the HHS Departmental Appeals Board.

We believe that the CMS State Medicaid Director Letter #02-018 specifically provides that school based administrative costs should not be reimbursed at the enhanced rate as of January 1, 2003. Therefore, the school based administrative costs totaling \$9,460,819 should be reclassified as other Medicaid administrative costs.

APPENDIX



Rod R. Blagojevich, Governor
Barry S. Maram, Director

201 South Grand Avenue East
Springfield, Illinois 62763-0002

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TTY: (800) 526-5812

May 26, 2006

Department of Health and Human Services
Office of Audit Services
Attn: Paul Swanson, Regional Inspector General for Audit Services
233 North Michigan Avenue, Suite 1360
Chicago, Illinois 60601-5502

Re: Draft Audit Report No. A-05-05-00051

Dear Mr. Swanson:

This letter is written in response to your April 28, 2006, letter, which requested written comments regarding *OIG Report 05-05-00051, Audit of Illinois' Medicaid Payments for Skilled Professional Medical Personnel for the Period October 1, 2003, Through September 30, 2004.*

The OIG's report contains two findings with one recommendation, comprised of three bullet points. Our comments relate to each bullet point.

RECOMMENDATIONS

- Refund the enhanced Federal share of \$62,648 claimed for non-State agency employees that were ineligible for enhanced reimbursement as skilled professional medical personnel;

The Department agrees with the recommendation and will include a reimbursement of \$62,648 in the quarter that this report is issued.

- Develop and implement procedures to ensure only qualifying individuals are claimed as skilled professional medical personnel; and

The Department agrees with the recommendation and will review the reporting categories of those claimed as skilled professional medical personnel, reclassifying as needed, to ensure only qualifying individuals are claimed.

- Reclassify the \$9,460,819 in school-based administrative costs, inappropriately claimed for enhanced reimbursement as skilled professional medical personnel, and appropriately charge those costs as other Medicaid administrative costs.

The Department disagrees with this finding. The Social Security Act and accompanying regulations allow for enhanced claiming for expenditures of SPMPs that utilize their expertise in carrying out these activities. The State Medicaid Director's letter from CMS attempts to eliminate that enhanced claiming for expenditures in the school based health services setting. The Department continues to challenge CMS' attempt to treat these expenditures differently than other similarly situated expenditures. The only mechanism that the Department has to seek review of CMS' action is to claim these expenses, have CMS deny the claim and seek review before the Departmental Appeals Board. The Department is considering all review options and does not believe the expenditures should be reclassified until such reviews are completed.

E-mail: hfswebmaster@illinois.gov

Internet: <http://www.hfs.illinois.gov/>

The Department appreciates the opportunity to offer comments regarding the recommendations.

Sincerely,

A handwritten signature in black ink that reads "Barry S. Maram" followed by a circled "C" or similar mark.

Barry S. Maram
Director