



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of Inspector General

Office of Audit Services, Region V
233 North Michigan Avenue
Suite 1360
Chicago, IL 60601

March 11, 2011

Report Number: A-05-10-00035

Mr. Michael B. Colbert
Director
Ohio Department of Job and Family Services
30 East Broad Street, 32nd Floor
Columbus, OH 43215

Dear Mr. Colbert:

Enclosed is the U.S. Department of Health & Human Services (HHS), Office of Inspector General (OIG), final report entitled *Family Planning Services Claimed by Ohio From October 1, 2007, Through September 30, 2009*. 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 Mike Barton, Audit Manager, at (614) 469-2543 or through email at Mike.Barton@oig.hhs.gov. Please refer to report number A-05-10-00035 in all correspondence.

Sincerely,

/James C. Cox/
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 and Medicaid Services
233 North Michigan Avenue, Suite 600
Chicago, Illinois 60601

Department of Health & Human Services

**OFFICE OF
INSPECTOR GENERAL**

**FAMILY PLANNING SERVICES CLAIMED
BY OHIO FROM OCTOBER 1, 2007,
THROUGH SEPTEMBER 30, 2009**



Daniel R. Levinson
Inspector General

March 2011
A-05-10-00035

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 Ohio, the Department of Job and Family Services (State agency) administers the Medicaid program and is responsible for providing family planning services and reporting expenditures for Federal reimbursement.

The amount of funding that the Federal Government reimburses to State Medicaid agencies, known as either Federal financial participation (FFP) or Federal share, is determined by the Federal medical assistance percentage (FMAP), which varies based on a State's relative per capita income. The State agency's FMAP ranged from 60.79-percent to 72.34-percent for claims paid from October 1, 2007, through September 30, 2009.

Federal requirements also make provisions for various specified services to be reimbursed at higher rates of FFP. Section 1903(a)(5) of the Act and 42 CFR § 433.10(c)(1) authorize reimbursement at an enhanced 90-percent FFP rate for family planning services. Section 4270 of the CMS *State Medicaid Manual* (the manual) states that family planning services include those that prevent or delay pregnancy or otherwise control family size and may include infertility treatments. Pursuant to the provisions of the manual, only items and procedures clearly furnished or provided for family planning purposes may be claimed at the enhanced 90-percent FFP rate. .

The State agency claimed \$1,312,454 (\$1,181,209 Federal share) for multiple procedure sterilizations, when the sterilization was not the primary reason for the hospital admission, during the audit period October 1, 2007, through September 30, 2009.

OBJECTIVE

Our objective was to determine whether the State agency properly claimed Medicaid family planning sterilization procedures for enhanced Federal reimbursement for the period October 1, 2007, through September 30, 2009.

SUMMARY OF FINDINGS

The State agency improperly claimed enhanced Federal reimbursement of \$320,774 for family planning services provided from October 1, 2007, through September 30, 2009. For all 325 claims reviewed, the State did not have a reasonable or a CMS-approved reimbursement methodology for multiple procedure sterilization claims when the sterilization was not the primary reason for the hospital admission. As a result, we are questioning the enhanced Federal

share for all 325 claims for family planning services claimed at the 90-percent Federal funding reimbursement rate from October 1, 2007, through September 30, 2009.

These errors occurred because the State agency did not have adequate controls to ensure that only Medicaid covered family planning services were claimed for the 90-percent Federal funding reimbursement rate.

RECOMMENDATIONS

We recommend that the State agency:

- refund \$320,774 to the Federal Government for the improper family planning costs claimed at the enhanced 90-percent Federal funding reimbursement rate from October 1, 2007, through September 30, 2009; and
- work with CMS to formulate a reasonable methodology for reimbursement when submitting multiple procedure sterilization claims.

STATE AGENCY COMMENTS

In written comments on our draft report, the State agency disagreed with the findings and asserted that the family planning costs claimed were both justified and reasonable. However, the State agency concurred with the report recommendations.

The State agency's comments are included in their entirety as the Appendix.

OFFICE OF INSPECTOR GENERAL RESPONSE

After reviewing the State Agency's comments, we maintain that our findings regarding the reasonableness of the reimbursement methodology remain valid.

TABLE OF CONTENTS

	<u>Page</u>
INTRODUCTION	1
BACKGROUND	1
Medicaid Program.....	1
Ohio’s Medicaid Program.....	1
Medicaid Coverage of Family Planning Services.....	1
OBJECTIVE, SCOPE, AND METHODOLOGY	2
Objective.....	2
Scope.....	2
Methodology.....	2
FINDINGS AND RECOMMENDATIONS	3
FEDERAL REQUIREMENTS	3
MULTIPLE PROCEDURE STERILIZATIONS	4
CALCULATION OF OVERPAYMENT	4
RECOMMENDATIONS	4
STATE AGENCY COMMENTS	5
OFFICE OF INSPECTOR GENERAL RESPONSE	5
APPENDIX	
STATE AGENCY COMMENTS	

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.

Ohio's Medicaid Program

In Ohio, the Department of Job and Family Services (State agency) administers the Medicaid program and is responsible for providing family planning services and reporting expenditures for Federal reimbursement. The State agency claimed \$1,312,454 (\$1,181,209 Federal share) for multiple procedure sterilizations, during the audit period from October 1, 2007, through September 30, 2009.

The amount of funding that the Federal Government reimburses to State Medicaid agencies, known as either Federal financial participation (FFP) or Federal share, is determined by the Federal medical assistance percentage (FMAP), which varies based on a State's relative per capita income. The State agency's FMAP ranged from 60.79-percent to 72.34-percent for claims paid from October 1, 2007, through September 30, 2009. Federal requirements also make provisions for various specified services to be reimbursed at higher rates of FFP.

Medicaid Coverage of Family Planning Services

Section 1905(a)(4)(C) of the Act requires States to furnish "... family planning services and supplies ... to individuals of child-bearing age (including minors who can be considered to be sexually active) who are eligible under the State plan and who desire such services and supplies" Section 1903(a)(5) of the Act and 42 CFR § 433.10(c)(1) authorize reimbursement at a 90-percent FFP rate for family planning services.

Section 4270 of the CMS *State Medicaid Manual* (the manual) states that family planning services include those that prevent or delay pregnancy or otherwise control family size and may also include infertility treatments. In addition, this provision of the manual generally permits an enhanced 90-percent FFP rate for the following items and services: counseling services and patient education; examination and treatment by medical professionals pursuant to States' requirements; devices to prevent conception; and infertility services, including sterilization reversals.

OBJECTIVE, SCOPE, AND METHODOLOGY

Objective

Our objective was to determine whether the State agency properly claimed Medicaid family planning sterilization procedures for enhanced Federal reimbursement for the period October 1, 2007, through September 30, 2009.

Scope

We reviewed family planning claims for sterilization services provided to Medicaid beneficiaries from October 1, 2007, through September 30, 2009. We specifically reviewed the State's reimbursement methodology for claims totaling \$1,312,454 (\$1,181,209 Federal share) for multiple procedure sterilizations, when the sterilization was not the primary reason for the hospital admission.

We did not perform an overall assessment of internal controls for claiming costs for Federal reimbursement. We limited our review of internal controls to gaining an understanding of the State agency's procedures for claiming Federal reimbursement for family planning services. We performed fieldwork at the State agency in Columbus, Ohio, in September 2010.

Methodology

To accomplish our objective, we:

- reviewed Federal and State laws and regulations related to reporting expenditures for family planning services;
- held discussions with State agency officials related to State policies, procedures, and methodology for claiming Medicaid reimbursement for family planning services;
- obtained and reviewed claims data for family planning services with dates of service from October 1, 2007, through September 30, 2009;
- obtained and reviewed documentation related to sterilization services, including patient consent forms; and
- calculated the difference between the enhanced 90-percent FFP rate and the effective FMAP rate for all 325 multiple procedure sterilization services provided during the period October 1, 2007, through September 30, 2009.

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 objective. 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 improperly claimed enhanced Federal reimbursement of \$320,774 for family planning services provided from October 1, 2007, through September 30, 2009. For all 325 claims reviewed, the State did not have a reasonable or a CMS-approved reimbursement methodology for multiple procedure sterilization claims when the sterilization was not the primary reason for the hospital admission. As a result, we are questioning the enhanced Federal share for all 325 claims for family planning services claimed at the 90-percent Federal funding reimbursement rate from October 1, 2007, through September 30, 2009.

These errors occurred because the State agency did not have adequate controls to ensure that only Medicaid covered family planning services were claimed for the 90-percent Federal funding reimbursement rate.

FEDERAL REQUIREMENTS

Federal cost principles at 2 CFR pt. 225, *Cost Principles for States, Local, and Indian Tribal Governments* (formerly Office of Management and Budget Circular A-87), Appendix A, § 225(C)(2), state:

Reasonable costs. A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost. The question of reasonableness is particularly important when governmental units or components are predominately federally funded. In determining reasonableness of a given cost, consideration shall be given to:

e. Significant deviations from the established practices of the governmental unit which may unjustifiably increase the Federal award's cost.

The CMS *Financial Management Review Guide Number 20*, entitled *Family Planning Services* provides specific instructions for performing financial management reviews of claims for family planning services. The guide refers to a 1980 policy memorandum regarding CMS policy in allocating family planning inpatient hospital costs where multiple procedures are performed. That CMS policy states that when multiple procedures are performed during a single hospital stay and submitted as a single inpatient claim, a State claim for Federal reimbursement must distinguish between those costs attributable to family planning (eligible for 90-percent Federal reimbursement) and those costs attributable to other covered services (reimbursed at the regular Federal medical assistant percentages). CMS does not require a specific allocation method, but does require that the reasonableness of the methodology be determined on a State-by-State basis. Additionally, Departmental Appeals Board Decision No. 1284 states the critical language is that the method adopted by a state must reasonably serve to claim the appropriate rate of Federal reimbursement. The Decision goes on to state that without a reasonable method to make this allocation properly, the State is not entitled to Federal reimbursement at the enhanced rate.

Section 4270 of the CMS *State Medicaid Manual*, generally permits a 90-percent rate of Federal reimbursement for medically approved methods, procedures, pharmaceutical supplies, and devices to prevent conception. Pursuant to the provisions of the manual, only items and procedures clearly furnished or provided for family planning purposes may be claimed at the 90-percent FFP rate.

MULTIPLE PROCEDURE STERILIZATIONS

To comply with CMS requirements regarding family planning services provided along with nonfamily planning services, the State developed a methodology to determine the Federal share of inpatient hospital claims containing multiple procedures (e.g., delivery and sterilization) performed during the same inpatient stay. To determine the amount of inpatient costs attributable to family planning services, the State multiplied the cost of the beneficiaries' Medicaid covered services by 31.43-percent. That amount was reimbursed at the enhanced 90-percent Federal reimbursement rate.

The use of the 31.43-percent rate is not reasonable since there is no support for the valuation and there is no evidence that CMS approved the State's methodology. In addition, the average amount of the State's claim is very high when compared to a normal sterilization claim. During our audit period, the non-multiple procedure sterilization claims averaged \$108 in Federal reimbursement per claim, while the multiple procedure inpatient hospital claims averaged \$3,634 per claim. Several multiple procedure claims submitted by the State were reimbursed at more than \$15,000 per claim.

CALCULATION OF OVERPAYMENT

Due to the unreasonableness of Ohio's methodology for submitting reimbursement for family planning hospital stays in which sterilization was not the primary reason for the stay, we are questioning \$320,774. The questioned amount represents the difference between the enhanced 90-percent FFP rate claimed by the State agency and the effective FMAP rate for all 325 multiple procedure sterilization services provided during the period October 1, 2007, through September 30, 2009.

RECOMMENDATIONS

We recommend that the State agency:

- refund \$320,774 to the Federal Government for the improper family planning costs claimed at the enhanced 90-percent Federal funding reimbursement rate from October 1, 2007, through September 30, 2009; and
- work with CMS to formulate a reasonable methodology for reimbursement when submitting multiple procedure sterilization claims.

STATE AGENCY COMMENTS

In written comments on our draft report, the State agency disagreed with the findings and asserted that the family planning costs claimed were both justified and reasonable. However, the State agency concurred with the report recommendations.

The State agency's comments are included in their entirety as the Appendix.

OFFICE OF INSPECTOR GENERAL RESPONSE

After reviewing the State Agency's comments, we maintain that our findings regarding the reasonableness of the reimbursement methodology remain valid.

APPENDIX



Department of
Job and Family Services

John R. Kasich, Governor
Michael B. Colbert, Director

February 25, 2011

James C. Cox, Regional Inspector General for Audit Services
Office of Audit Services Region V
233 North Michigan Ave
Suite 1360
Chicago, IL 60601

Report Number: A-05-10-00035

Dear Mr. Cox:

As requested in the OIG/OAS report listed above, please accept this letter as the State of Ohio's response to the Family Planning draft report A-05-10-00035. Please include our official response as part of the final report as attachment A. The State of Ohio concurred with the summary of findings listed in the report.

Please contact Christina Helm at 614-466-8364 or Christina.Helm@jfs.ohio.gov should you have any questions.

Sincerely,

Edna Frezgi, Chief Fiscal Officer
Ohio Department of Job and Family Services

Cc: Michael B. Colbert, Director, ODJFS
Michael McCreight, Assistant Director, Health and Human Services, ODJFS
Lewis George, Chief Legal Counsel, ODJFS
John McCarthy, Director, Office of Ohio Health Plans, ODJFS
Cynthia Callender-Dungey, Assistant Deputy Director, ODJFS

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Recommendation #1:

The State Agency(ODJFS) refund \$320,774 to the Federal Government for the improper family planning costs claimed at the enhanced 90-percent Federal funding reimbursement rate from October 1, 2007, through September 30, 2009.

Recommendation #2:

The State Agency (ODJFS) work with CMS to formulate a reasonable methodology for reimbursement when submitting multiple procedure sterilization claims.

ODJFS Response:

The Ohio Department of Job and Family Services (ODJFS) is the single-state agency which administers the Medicaid program in Ohio. As such, ODJFS is responsible for providing family planning services and reporting expenditures for Federal reimbursement. During the period from October 1, 2007 through September 30, 2009 ODJFS claimed \$1,312,454 (\$1,181,209 Federal share) for multiple procedure sterilizations.

Childbirth delivery and sterilization performed during the same inpatient hospital stay is an example of multiple procedure sterilization. To determine the amount of inpatient costs attributable to family planning services, and thus eligible for an enhanced 90-percent Federal Funds Participation rate, ODJFS multiplied the cost of the beneficiaries' covered services by 31.43 percent.

The Office of Inspector General (OIG) has taken issue with this 31.43-percent rate as being unreasonable because (1.) there is no support for the valuation, and (2.) there is no evidence that the Centers for Medicare and Medicaid Services approved this methodology. Consequently, the OIG is questioning \$320,774 in costs submitted at the enhanced 90-percent federal funding rate.

The OIG has recommended that ODJFS (1.) refund \$320,774 to the Federal Government for improper family planning costs claimed, and (2.) work with CMS to formulate a reasonable methodology for reimbursement when submitting multiple procedure sterilization claims.

Although ODJFS disagrees with the findings and continues to assert that the family planning costs claimed were both justified and reasonable, ODJFS will concur with the recommendations of the OIG.

ODJFS will: 1.) refund \$320,774 to the Federal Government for improper family planning costs claimed, and (2.) work with CMS to formulate a reasonable methodology for reimbursement when submitting multiple procedure sterilization claims.