

Department of Health and Human Services

**OFFICE OF  
INSPECTOR GENERAL**

**INDIANA IMPROPERLY CLAIMED  
FEDERAL REIMBURSEMENT FOR  
ALL REVIEWED MEDICAID  
INPATIENT PSYCHIATRIC HOSPITAL  
SERVICE PAYMENTS TO  
LOGANSPORT STATE HOSPITAL**

*Inquiries about this report may be addressed to the Office of Public Affairs at  
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Gloria L. Jarmon  
Deputy Inspector General

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A-05-12-00042

# *Office of Inspector General*

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## **EXECUTIVE SUMMARY**

### **BACKGROUND**

#### **Medicaid Program**

Pursuant to Title XIX of the Social Security 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.

#### **Indiana Medicaid Program**

The Indiana Office of Medicaid Policy and Planning (the State agency) administers the Indiana Medicaid program according to the CMS-approved State plan. The State agency makes Medicaid payments to eligible hospitals and claims Federal reimbursement for a portion of such payments. The Indiana Division of Mental Health and Addiction operates six State-owned psychiatric hospitals that provide inpatient treatment for mental health conditions. The Indiana State Department of Health is the State survey agency responsible for determining whether these hospitals meet the standards for participation in the Medicaid program. Logansport State Hospital (Logansport), an institution for mental diseases and one of the six State-owned psychiatric hospitals, provides inpatient psychiatric services primarily to adults, including those aged 65 or older, but also to individuals under age 21, with severe mental illness. During the audit period, January 1, 2008, through December 31, 2010, Logansport participated in the Medicaid, but not the Medicare, program.

#### **Federal Requirements for Inpatient Psychiatric Hospital Services**

For States to claim Federal reimbursement for their Medicaid inpatient psychiatric service payments to a psychiatric hospital, the hospital's inpatient services must meet the Federal definitions of such services. These definitions require the provider to demonstrate compliance with the basic Medicare Conditions of Participation (CoP) generally applicable to all hospitals and two special Medicare CoP applicable to psychiatric hospitals. The basic Medicare CoP address issues such as licensing, quality of care, safety, patient rights, self assessment and performance improvement, and service availability. The special Medicare CoP specify staffing and medical record requirements.

A psychiatric hospital must undergo review by qualified health care professionals to demonstrate compliance with the basic and special Medicare CoP. Such review provides CMS with reasonable assurance that participating facilities are improving the health and protecting the safety of Medicaid beneficiaries. For periods that a psychiatric hospital does not demonstrate compliance with the basic and special Medicare CoP, all Medicaid inpatient psychiatric service payments received from the State agency are ineligible for Federal reimbursement.

## **OBJECTIVE**

Our objective was to determine whether the State agency claimed Federal reimbursement for Medicaid inpatient psychiatric service payments made to Logansport in accordance with certain Federal requirements for inpatient psychiatric hospital services.

## **SUMMARY OF FINDING**

The State agency claimed \$5,841,815 in Federal reimbursement for Medicaid inpatient psychiatric service payments made to Logansport that were not in accordance with Federal requirements for inpatient psychiatric hospital services. Logansport did not demonstrate compliance with the special Medicare CoP at any time during the audit period. Therefore, all of the \$5,841,815 in such Federal reimbursement for claims with dates of service during the audit period was not allowable. The State agency made these improper claims because it believed that Logansport had met all requirements to be eligible for Medicaid inpatient psychiatric service payments.

## **RECOMMENDATIONS**

We recommend that the State agency:

- refund \$5,841,815 to the Federal Government for its share of inpatient psychiatric service payments made to Logansport for claims with dates of service when it did not demonstrate compliance with the special Medicare CoP,
- identify and refund the Federal share of any additional payments made to Logansport for claims with dates of service after the audit period if neither the State agency nor Logansport can demonstrate the hospital's compliance with Federal requirements for inpatient psychiatric hospital services, and
- ensure that Federal reimbursement for Medicaid inpatient psychiatric service payments to psychiatric hospitals is claimed only if those hospitals can demonstrate compliance with the special Medicare CoP.

## **STATE AGENCY COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE**

In written comments on our draft report, the State agency concurred, in part, with our first recommendation but did not concur with our second and third recommendations. Regarding our first recommendation, the State agency agreed that “a refund is due” for Federal reimbursement claimed for inpatient psychiatric services to *individuals aged 65 or older*. However, it did not agree to refund Federal reimbursement claimed for Logansport's inpatient psychiatric services to *individuals under age 21* because it believes that facilities that provided such services did not have to meet the Medicare CoP. The State agency disagreed with our second and third recommendations for the same reason.

After reviewing the State agency's comments on our draft report, we maintain that our findings and recommendations are valid. Federal requirements mandated that psychiatric hospitals' inpatient services to both individuals aged 65 or older and individuals under age 21 were eligible for Federal reimbursement only if the facilities that provided them could demonstrate compliance with the Medicare CoP.

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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 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.

#### Indiana Medicaid Program

The Indiana Office of Medicaid Policy and Planning (the State agency) administers the Indiana Medicaid program according to the CMS-approved State plan. The State agency makes Medicaid payments to eligible hospitals and claims Federal reimbursement for a portion of such payments. The Indiana Division of Mental Health and Addiction operates six State-owned psychiatric hospitals that provide inpatient treatment for mental health conditions. The Indiana State Department of Health is the State survey agency responsible for determining whether these hospitals meet the standards for participation in the Medicaid program. Logansport State Hospital (Logansport), an institution for mental diseases (IMD) and one of the six State-owned psychiatric hospitals, provides inpatient psychiatric services primarily to adults, including those aged 65 or older, but also to individuals under age 21, with severe mental illness. During the audit period, January 1, 2008, through December 31, 2010, Logansport participated in the Medicaid, but not the Medicare, program.

#### Federal Requirements for Inpatient Psychiatric Hospital Services

For States to claim Federal reimbursement for their Medicaid inpatient psychiatric service payments to a psychiatric hospital, the hospital's inpatient services must meet the Federal definitions of such services. These definitions require the provider to demonstrate compliance with the basic Medicare Conditions of Participation (CoP) generally applicable to all hospitals and two special Medicare CoP applicable to psychiatric hospitals.

#### *Medicaid Payments*

Pursuant to section 1903(a)(1) of the Act, States can claim Federal reimbursement for a portion of their Medicaid medical assistance payments. For patients in IMDs, a category that generally includes psychiatric hospitals, medical assistance includes inpatient hospital services for individuals aged 65 or older but excludes care or services for younger individuals except for inpatient psychiatric hospital services for individuals under age 21 (section 1905(a) of the Act).<sup>1</sup>

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<sup>1</sup> Pursuant to 42 CFR § 441.151(a)(3), medical assistance also includes necessary inpatient psychiatric hospital services for individuals aged 21 if they were receiving such services immediately before reaching age 21.

## *Definitions of Medicaid Inpatient Psychiatric Hospital Services*

The Federal definitions of Medicaid inpatient psychiatric hospital services require the hospitals providing such services to comply with Medicare CoP, including two special Medicare CoP. The basic Medicare CoP address issues such as licensing, quality of care, safety, patient rights, self assessment and performance improvement, and service availability (42 CFR §§ 482.1–482.23 and 42 CFR §§ 482.25–482.57). The special Medicare CoP specify staffing and medical record requirements (42 CFR §§ 482.61 and 482.62).

## *Demonstrating Compliance With Medicare Conditions of Participation*

To demonstrate compliance with the basic and special Medicare CoP, a psychiatric hospital must undergo review by qualified health care professionals. Medicare-participating psychiatric hospitals are generally deemed to meet both the basic and special Medicare CoP for Medicaid purposes (42 CFR § 488.5(b)). During our audit period, psychiatric hospitals that did not participate in Medicare could generally demonstrate compliance with the *basic* Medicare CoP<sup>2</sup> by being accredited as a hospital by CMS-approved organizations, such as the Joint Commission.<sup>3</sup> However, during that time, such accreditation did not demonstrate compliance with the *special* Medicare CoP (42 CFR § 488.5(a)).<sup>4</sup> According to the *CMS State Operations Manual*, section 2718A, psychiatric hospitals had to be specially surveyed by qualified psychiatric health care professionals to demonstrate compliance with the *special* Medicare CoP. Accreditation or survey by qualified health care professionals provides CMS with reasonable assurance that participating facilities are improving the health and protecting the safety of Medicaid beneficiaries.

For periods that a psychiatric hospital does not demonstrate compliance with the basic and special Medicare CoP, all Medicaid inpatient psychiatric service payments received from the State agency are ineligible for Federal reimbursement.

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

### **Objective**

Our objective was to determine whether the State agency claimed Federal reimbursement for Medicaid inpatient psychiatric service payments made to Logansport in accordance with certain Federal requirements for inpatient psychiatric hospital services.

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<sup>2</sup> One exception is the utilization review requirement in 42 CFR § 482.30; however, compliance with the utilization review requirement was outside the scope of our audit.

<sup>3</sup> The Joint Commission was previously known as the Joint Commission on Accreditation of Healthcare Organizations and is so referenced in 42 CFR § 488.5(a).

<sup>4</sup> After the audit period (January 1, 2008, through December 31, 2010), CMS granted the Joint Commission deeming authority with respect to the two special Medicare CoP (76 Fed. Reg. 10598 (Feb. 25, 2011)).

## **Scope**

We reviewed Logansport's compliance for the period from January 1, 2008, through December 31, 2010, with certain Federal requirements for inpatient psychiatric hospital services. We identified \$5,841,815 in Federal reimbursement for Medicaid inpatient psychiatric service payments made to Logansport for claims with dates of service during the audit period. We limited our review of the State agency's internal controls to those significant to the objective of our audit.

We performed our fieldwork from February through May 2012.

## **Methodology**

To accomplish our objective, we:

- examined Federal and State Medicaid requirements for inpatient psychiatric hospital services,
- identified periods for which neither the State agency nor Logansport could demonstrate Logansport's compliance with certain Federal requirements for inpatient psychiatric hospital services,
- held discussions with officials of the State agency and reviewed its Medicaid payment records, and
- determined the amount of Federal reimbursement for Medicaid inpatient psychiatric service payments made to Logansport for claims with dates of service during periods when it did not demonstrate compliance.

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 objectives.

## **FINDING AND RECOMMENDATIONS**

The State agency claimed \$5,841,815 in Federal reimbursement for Medicaid inpatient psychiatric service payments made to Logansport that were not in accordance with Federal requirements for inpatient psychiatric hospital services. Logansport did not demonstrate compliance with the special Medicare CoP at any time during the audit period. Therefore, all of the \$5,841,815 in such Federal reimbursement for claims with dates of service during the audit period was not allowable. The State agency made these improper claims because it believed that Logansport had met all requirements to be eligible for Medicaid inpatient psychiatric service payments.

## **FEDERAL REQUIREMENTS**

Pursuant to 42 CFR §§ 440.140(a) and 482.60, an IMD in which individuals aged 65 or older receive Medicaid inpatient hospital services must meet the basic Medicare CoP (42 CFR §§ 482.1–482.23 and 42 CFR §§ 482.25–482.57) applicable to all hospitals and two special Medicare CoP applicable to psychiatric hospitals (42 CFR §§ 482.61 and 482.62). Pursuant to sections 1905(h)(1) and 1861(f) of the Act, a psychiatric hospital that provides Medicaid inpatient psychiatric services to individuals under age 21 also must meet the basic and special Medicare CoP.

The Medicare CoP for psychiatric hospitals are minimum standards that provide a basis for improving quality of care and protecting the health and safety of Medicaid beneficiaries. The basic Medicare CoP address issues such as licensing, quality of care, safety, patient rights, self assessment and performance improvement, and service availability (42 CFR §§ 482.1–482.23 and 42 CFR §§ 482.25–482.57). The special staffing Medicare CoP require that psychiatric hospitals “have adequate numbers of qualified professional and supportive staff to evaluate patients, formulate written, individualized comprehensive treatment plans, provide active treatment measures, and engage in discharge planning” (42 CFR § 482.62). The special medical record Medicare CoP require that “medical records maintained by a psychiatric hospital ... permit determination of the degree and intensity of the treatment provided to individuals who are furnished services in the institution” (42 CFR § 482.61).

## **LOGANSFORT DID NOT DEMONSTRATE COMPLIANCE WITH SPECIAL MEDICARE CONDITIONS OF PARTICIPATION DURING THE AUDIT PERIOD**

The State agency improperly claimed \$5,841,815 in Federal reimbursement for Medicaid inpatient psychiatric service payments made to Logansport for claims with dates of service when it did not demonstrate compliance with the special Medicare CoP. Logansport did not participate in Medicare at any time during the audit period and was not thereby deemed to meet either the basic or the special Medicare CoP for Medicaid purposes. The Joint Commission accredited Logansport as a hospital throughout the audit period, and that accreditation generally demonstrated Logansport’s compliance with the basic Medicare CoP. However, federally contracted surveyors conducted surveys of Logansport’s compliance with the special Medicare CoP in May 2007 and November 2010 and, in both cases, determined that Logansport was not compliant with those standards. Therefore, Logansport did not demonstrate compliance with the special Medicare CoP at any time during the audit period.

The State agency improperly claimed Federal reimbursement for claims with dates of service when Logansport did not demonstrate compliance with the special Medicare CoP because the State agency believed that Logansport had met all requirements to be eligible for Medicaid inpatient psychiatric service payments.

## RECOMMENDATIONS

We recommend that the State agency:

- refund \$5,841,815 to the Federal Government for its share of inpatient psychiatric service payments made to Logansport for claims with dates of service when it did not demonstrate compliance with the special Medicare CoP,
- identify and refund the Federal share of any additional payments made to Logansport for claims with dates of service after the audit period if neither the State agency nor Logansport can demonstrate the hospital's compliance with Federal requirements for inpatient psychiatric hospital services, and
- ensure that Federal reimbursement for Medicaid inpatient psychiatric service payments to psychiatric hospitals is claimed only if those hospitals can demonstrate compliance with the special Medicare CoP.

## STATE AGENCY COMMENTS

In written comments on our draft report, the State agency concurred, in part, with our first recommendation but did not concur with our second and third recommendations. Regarding our first recommendation, the State agency agreed that “a refund is due” for Federal reimbursement claimed for inpatient psychiatric services to *individuals aged 65 or older*. However, it did not agree to refund Federal reimbursement claimed for Logansport's inpatient psychiatric services to *individuals under age 21* because it believes that facilities that provided such services did not have to meet the Medicare CoP. The State agency disagreed with our second and third recommendations for the same reason.

The State agency gave three reasons for believing that facilities that provided inpatient psychiatric services to individuals under age 21 did not have to meet the Medicare CoP. First, the State agency indicated that the regulations for inpatient psychiatric services to individuals under age 21 did not require psychiatric hospitals to comply with the Medicare CoP; such hospitals needed only accreditation by the Joint Commission. Second, it cited *New Jersey Department of Human Services, Departmental Appeals Board (DAB) No. 513 (1984)*, in which the DAB concluded that a facility's Joint Commission accreditation was generally adequate to make its inpatient psychiatric services to individuals under age 21 eligible for Federal reimbursement. Third, the State agency indicated that regulations permitted such services to be provided in non-hospital facilities accredited by the Joint Commission.

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 on our draft report, we maintain that our findings and recommendations are valid. Federal requirements mandated that psychiatric hospitals' inpatient services to both individuals aged 65 or older and individuals under age 21 were eligible

for Federal reimbursement only if the facilities that provided them could demonstrate compliance with the Medicare CoP.

The State agency believes that psychiatric hospitals that provided inpatient services to individuals under age 21 did not have to meet the Medicare CoP; we disagree. Section 1905(h)(1) of the Act stated, “[T]he term ‘inpatient psychiatric hospital services for individuals under age 21’ includes only ... inpatient services which are provided in an institution ... which is a psychiatric hospital as defined in section 1861(f) or in another inpatient setting that the Secretary has specified in regulations.” Section 1861(f) of the Act defined a psychiatric hospital and required such facilities to meet both the basic and special Medicare CoP. The State agency quoted the primary implementing regulations for inpatient psychiatric services to individuals under age 21 that were in effect during most of our audit period (42 CFR §§ 440.160 and 441.151). Those regulations permitted such services to be provided in psychiatric hospitals and added a Joint Commission accreditation requirement to the statutory requirement that such hospitals meet the basic and special Medicare CoP.<sup>5</sup>

The State agency also cited *New Jersey Department of Human Services*, DAB No. 513 (1984), in support of its belief that facilities that provided inpatient psychiatric services to individuals under age 21 did not have to meet the Medicare CoP; however, that DAB decision was based on statutes that were subsequently amended. In a decision dated April 18, 1984, the DAB concluded that a facility’s Joint Commission accreditation was generally adequate to make its inpatient psychiatric services to individuals under age 21 eligible for Federal reimbursement. The DAB’s conclusion was based, in part, on section 1905(h)(1) of the Act, which on April 18, 1984, stated, “[T]he term ‘inpatient psychiatric hospital services for individuals under age 21’ includes only ... inpatient services which are provided in an institution which is accredited as a psychiatric hospital by the Joint Commission.” Effective July 18, 1984, section 2340(b) of the Deficit Reduction Act of 1984, P.L. No. 98-369, changed section 1905(h)(1) to state that “the term ‘inpatient psychiatric hospital services for individuals under age 21’ includes only ... inpatient services which are provided in an institution ... which is a psychiatric hospital as defined in section 1861(f).”<sup>6</sup> Therefore, the DAB’s conclusion was superseded by statutory changes that required psychiatric hospitals providing such services to comply with the basic and special Medicare CoP as required by section 1861(f) of the Act.

Finally, the State agency indicated that regulations permitted inpatient psychiatric services to individuals under age 21 to be provided in non-hospital facilities accredited by the Joint Commission; however, this comment is irrelevant to our audit. We agree with the State agency that regulations permitted such services to be provided in other settings with Joint Commission accreditation, namely inpatient psychiatric units of general hospitals or non-hospital facilities, such as psychiatric residential treatment facilities. However, this State agency comment is

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<sup>5</sup> Effective October 1, 2010, CMS changed 42 CFR §§ 440.160 and 441.151 to remove the Joint Commission accreditation requirement, to reiterate the statutory requirement that psychiatric hospitals must comply with the basic and special Medicare CoP, and to add information about how to demonstrate such compliance (75 Fed. Reg. 50041 (Aug. 16, 2010)).

<sup>6</sup> Section 4755(a)(1) of the Omnibus Budget Reconciliation Act of 1990, P.L. No. 101-508, changed section 1905(h)(1) to add “or in another inpatient setting that the Secretary has specified in regulations” retroactively effective July 18, 1984.

irrelevant to our audit because Logansport was a psychiatric hospital throughout the audit period and, as such, had to meet the requirements for psychiatric hospitals, such as demonstrating compliance with the basic and special Medicare CoP.

# **APPENDIX**

## APPENDIX: STATE AGENCY COMMENTS



Mitchell E. Daniels, Jr., Governor  
State of Indiana

*Office of Medicaid Policy and Planning*  
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November 2, 2012

Sheri L. Fulcher  
Regional Inspector General for Audit Services  
Department of Health and Human Services  
Office of Audit Services  
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Chicago, IL 60601

Re: OIG Report No. A-05-12-00042

Dear Ms. Fulcher:

The Indiana Office of Medicaid Policy and Planning (OMPP) appreciates the opportunity to comment on the Office of Inspector General's (OIG) draft report entitled "Indiana Improperly Claimed Federal Reimbursement for All Reviewed Medicaid Inpatient Psychiatric Hospital Service Payments to Logansport State Hospital," Report No. A-05-12-00042, dated September 28, 2012. The State appreciates the extension of the deadline for OMPP's response to October 31, 2012.

In this letter, the State addresses the recommendations included in the aforementioned draft audit report.

**Recommendation 1:** Refund \$5,841,815 to the Federal Government for its share of inpatient psychiatric service payments made to Logansport for claims with dates of service when it did not demonstrate compliance with the special Medicare CoP.

**State Response:** Nonconcurrency. In April 2009, Logansport State Hospital discontinued billing Medicaid for members 65 years of age and older and only billed for those members 21 years of age and younger. The State agrees that a refund is due for those 65 years of age and older included during this audit timeframe. Indiana submitted claims for federal financial participation (FFP) related to inpatient psychiatric services for those 21 years of age and younger because the State believed that Logansport State Hospital met all applicable requirements for services. The premise for the financial findings in the draft report is that a provider must "demonstrate compliance with the basic Medicare Conditions of Participation (CoP) generally applicable to all hospitals and two special Medicare CoP applicable to psychiatric hospitals."

Logansport State Hospital was Joint-Commission accredited for the entire audit period, thus the State properly claimed FFP for Logansport State Hospital. Logansport State Hospital does not need to demonstrate compliance with the Medicare CoP in order to receive payments for children under age 21,



as the regulations require only that the hospital be JCAHO-accredited. See 42 CFR § 440.160(b)(1) (services must be provided by “a psychiatric hospital or an inpatient psychiatric program in a hospital, accredited by the Joint Commission on Accreditation of Healthcare Organizations”) and 42 CFR § 441.151(a)(2)(i) (“[i]npatient psychiatric services for individuals under age 21 must be: ... [p]rovided by ...[a] psychiatric hospital or an inpatient psychiatric program in a hospital, accredited by the Joint Commission on Accreditation of Healthcare Organizations”). In New Jersey Department of Human Services, DAB No. 513 (1984), the Departmental Appeals Board confirmed that there are “distinct statutory requirements” for the two groups and that, unlike that over-65 category, “for Medicaid individuals under age 21, JCAH[O] accreditation renders a facility or program eligible to receive [federal financial participation] so long as the services are in compliance with 42 CFR Part 441, Subpart D and the services are provided under the direction of a physician.” *Id.* At 6, 3.

**Recommendation 2:** Identify and refund the Federal share of any additional payments made to Logansport for claims with dates of services after the audit period if neither the State agency nor Logansport can demonstrate the hospital’s compliance with Federal requirements for inpatient psychiatric hospital services.

**State Response:** Nonconcurrency. As stated previously, Indiana submitted claims for federal financial participation (FFP) related to inpatient psychiatric services for those 21 years of age and younger because the State believes that Logansport State Hospital met all applicable requirements for services during the time period of this audit for this population.

**Recommendation 3:** Ensure that Federal reimbursement for Medicaid inpatient psychiatric service payments to psychiatric hospitals is claimed only if those hospitals can demonstrate compliance with the special Medicare CoP.

**State Response:** Nonconcurrency. As stated previously, Logansport State Hospital does not need to demonstrate compliance with the Medicare CoP in order to receive payments for children under age 21, as the Medicaid regulations permit reimbursement for inpatient psychiatric services provided to children under age 21 in a non-hospital setting accredited by the Joint Commission (see 42 CFR § 441.151(a)(2)). Indiana submitted claims for federal financial participation (FFP) related to inpatient psychiatric services for those 21 years of age and younger because the State believes that Logansport State Hospital met all applicable requirements for services during the time period of this audit for this population. FFP was discontinued for the 65 years of age and older population in April 2009.

The State appreciates your consideration of the information provided in this letter. If you have any questions or require additional information, please contact Kristina Moorhead at 317-233-2127 or [Kristina.Moorhead@fssa.in.gov](mailto:Kristina.Moorhead@fssa.in.gov).

Sincerely,



Pat Casanova  
Medicaid Director