



May 24, 2011

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

**FROM:** /Diann M. Saltman/ for  
George M. Reeb  
Acting Deputy Inspector General for Audit Services

**SUBJECT:** Review of Medicaid Hysterectomy Expenditures Claimed as Family Planning in Oklahoma for Calendar Years 2005 to 2009 (A-06-10-00047)

Attached, for your information, is an advance copy of our final report on Medicaid hysterectomy expenditures claimed as family planning in Oklahoma for calendar years 2005 to 2009. We will issue this report to the Oklahoma Health Care Authority within 5 business days.

If you have any questions or comments about this report, please do not hesitate to contact me at (410) 786-7104 or through e-mail at [George.Reeb@oig.hhs.gov](mailto:George.Reeb@oig.hhs.gov), or your staff may contact Patricia Wheeler, Regional Inspector General for Audit Services, Region VI, at (214) 767-8414 or through email at [Patricia.Wheeler@oig.hhs.gov](mailto:Patricia.Wheeler@oig.hhs.gov). Please refer to report number A-06-10-00047.

Attachment



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of Inspector General

Office of Audit Services, Region VI  
1100 Commerce Street, Room 632  
Dallas, TX 75242

May 25, 2011

Report Number: A-06-10-00047

Ms. Carrie Evans  
Chief Financial Officer  
Oklahoma Health Care Authority  
2401 NW 23rd Street, Suite A1  
Oklahoma City, OK 73107

Dear Ms. Evans:

Enclosed is the U.S. Department of Health & Human Services (HHS), Office of Inspector General (OIG), final report entitled *Review of Medicaid Hysterectomy Expenditures Claimed as Family Planning in Oklahoma for Calendar Years 2005 to 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 at (214) 767-8414, or contact Warren Lundy, Audit Manager, at (405) 605-6183 or through email at [Warren.Lundy@oig.hhs.gov](mailto:Warren.Lundy@oig.hhs.gov). Please refer to report number A-06-10-00047 in all correspondence.

Sincerely,

/Patricia Wheeler/  
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 & Medicaid Services  
233 North Michigan Avenue, Suite 600  
Chicago, IL 60601

Department of Health & Human Services

**OFFICE OF  
INSPECTOR GENERAL**

**REVIEW OF MEDICAID  
HYSTERECTOMY EXPENDITURES  
CLAIMED AS FAMILY PLANNING  
IN OKLAHOMA FOR CALENDAR  
YEARS 2005 TO 2009**



Daniel R. Levinson  
Inspector General

May 2011  
A-06-10-00047

# *Office of Inspector General*

<http://oig.hhs.gov>

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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:

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# *Notices*

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**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.

## **EXECUTIVE SUMMARY**

### **BACKGROUND**

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 administer and fund 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 plan. Although the States have considerable flexibility in designing and operating their Medicaid programs, they must comply with applicable Federal requirements. In Oklahoma, the Oklahoma Health Care Authority (State agency) is responsible for administering the Medicaid program.

The State agency claims Medicaid expenditures and the associated Federal share of those expenditures on the Form CMS-64, Quarterly Medicaid Statement of Expenditures for the Medical Assistance Program (CMS-64 report). It reports Medicaid funds used to pay for medical and administrative expenditures for the quarter being reported and any prior-period adjustments.

Pursuant to section 1905(b) of the Social Security 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. The FMAP for family planning expenditures is 90 percent, which is higher than the regular FMAP. The Federal Government pays its share of hysterectomy expenditures at the regular FMAP.

### **OBJECTIVE**

Our objective was to determine whether the State agency claimed Federal reimbursement for hysterectomy expenditures at the enhanced family planning FMAP of 90 percent for the period January 1, 2005, through December 31, 2009.

### **SUMMARY OF FINDING**

Of the \$18,156,409 in hysterectomy expenditures the State agency claimed from January 1, 2005, through December 31, 2009, it improperly claimed \$17,394,988 at the enhanced family planning FMAP of 90 percent. The remaining \$761,421 was claimed at the regular FMAP. The expenditures were improperly claimed because the State agency programmed its computer system to aggregate the amount paid for services with hysterectomy billing codes on a CMS-64 report line that the State agency generally used to claim family planning expenditures. As a result, the State agency inappropriately received an additional \$3,356,074 (Federal share).

## **RECOMMENDATIONS**

We recommend that the State agency:

- refund to the Federal Government the \$3,356,074 in overpayments the State agency received for hysterectomy expenditures claimed at the enhanced family planning FMAP,
- refund to the Federal Government any overpayments the State agency may have received for hysterectomy expenditures claimed at the enhanced family planning FMAP in quarters after our audit period, and
- discontinue claiming hysterectomy expenditures at the enhanced family planning FMAP.

## **STATE AGENCY COMMENTS**

The State agency agreed with our finding and stated that it had removed all hysterectomy billing codes from the list of family planning codes in its computer system. The State agency's comments appear in their entirety as the Appendix.

**TABLE OF CONTENTS**

	<u>Page</u>
<b>INTRODUCTION</b> .....	1
<b>BACKGROUND</b> .....	1
Medicaid Program .....	1
Quarterly Medicaid Statement of Expenditures for the Medical Assistance Program.....	1
Federal Requirements .....	1
Hysterectomy Procedures .....	2
<b>OBJECTIVE, SCOPE, AND METHODOLOGY</b> .....	2
Objective.....	2
Scope .....	2
Methodology.....	2
<b>FINDING AND RECOMMENDATIONS</b> .....	3
<b>IMPROPERLY CLAIMED HYSTERECTOMY EXPENDITURES</b> .....	3
<b>RECOMMENDATIONS</b> .....	4
<b>STATE AGENCY COMMENTS</b> .....	4
<b>APPENDIX</b>	
<b>STATE AGENCY COMMENTS</b>	

## INTRODUCTION

### 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 administer and fund 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 plan. Although the States have considerable flexibility in designing and operating their Medicaid programs, they must comply with applicable Federal requirements. In Oklahoma, the Oklahoma Health Care Authority (State agency) is responsible for administering the Medicaid program.

Pursuant to section 1905(b) of the Social Security 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. For calendar years 2005 through 2009, the State agency's regular FMAP ranged from 67.10 percent to 75.83 percent.

The Federal Government's share of some medical assistance expenditures is higher than the regular FMAP. For example, the Federal share of family planning expenditures is 90 percent, and the Federal share of Indian Health Service (IHS) expenditures is 100 percent.

#### Quarterly Medicaid Statement of Expenditures for the Medical Assistance Program

The State agency claims Medicaid expenditures and the associated Federal share on the Form CMS-64, Quarterly Medicaid Statement of Expenditures for the Medical Assistance Program (CMS-64 report). This form reports Medicaid funds used to pay for medical and administrative expenditures for the quarter being reported and any prior-period adjustments. The CMS *State Medicaid Manual*, section 2500(A)(1), states that the amounts reported on the CMS-64 report and its attachments must represent actual expenditures. In addition, all supporting documentation must be in readily reviewable form and available at the time the claim is filed.

This audit resulted from a separate review<sup>1</sup> we did of Oklahoma's CMS-64 report for the quarter ended December 31, 2008. We addressed the State agency's overall claim for Federal reimbursement in that report.

#### Federal Requirements

Regulations (42 CFR § 441.255) make Federal share at the regular FMAP available for hysterectomy procedures that are not performed solely for sterilization purposes and list

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<sup>1</sup> *Review of the Quarterly Medicaid Statement of Expenditures for the Medical Assistance Program in Oklahoma* (A-06-09-00097).

additional requirements for Federal reimbursement. The CMS *State Medicaid Manual*, section 4270(B)(2), states that the enhanced family planning FMAP of 90 percent is not available for the cost of a hysterectomy.

## **Hysterectomy Procedures**

A hysterectomy is the surgical removal of the uterus. Because removal of the uterus makes the patient unable to bear children and significantly changes hormonal levels, the surgery is recommended only under certain circumstances (e.g., cancer or fibroids). In 2005, the State agency began claiming hysterectomy expenditures on the sterilization line on the CMS-64 report.

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

### **Objective**

Our objective was to determine whether the State agency claimed Federal reimbursement for hysterectomy expenditures at the enhanced family planning FMAP of 90 percent for the period January 1, 2005, through December 31, 2009.

### **Scope**

From January 1, 2005, through December 31, 2009, the State agency claimed \$18,156,409 in hysterectomy expenditures.<sup>2</sup>

Our objective did not require a review of the overall internal control structure of the State agency. Therefore, we limited our internal control review to the State agency's procedures for aggregating hysterectomy expenditures on the CMS-64 report.

We conducted fieldwork at the State agency's offices in Oklahoma City, Oklahoma, from February to December 2010.

### **Methodology**

To accomplish our objective, we:

- reviewed applicable laws, regulations, and guidance;
- interviewed State agency officials;
- gained an understanding of the process used by the State agency for claiming hysterectomy expenditures on the CMS-64 report;
- identified inpatient and outpatient billing codes for hysterectomies;

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<sup>2</sup> The reviewed amount does not include costs of claims submitted by IHS facilities because they were eligible for reimbursement at the enhanced FMAP of 100 percent.

- traced expenditures claimed on the CMS-64 report sterilization line to supporting claim-level data;
- analyzed the claim-level data to:
  - identify and remove claims submitted by IHS facilities,
  - identify claims with hysterectomy billing codes, and
  - determine what FMAP the State agency used to calculate the Federal share for claims with hysterectomy billing codes;
- calculated Federal overpayments related to hysterectomies that the State agency claimed at the enhanced family planning FMAP of 90 percent (i.e., calculated overpayments as the difference between the enhanced family planning FMAP and the regular FMAP); and
- discussed our results with the State agency.

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 finding and conclusions based on our audit objective.

## **FINDING AND RECOMMENDATIONS**

### **IMPROPERLY CLAIMED HYSTERECTOMY EXPENDITURES**

The CMS *State Medicaid Manual*, section 4270(B)(2), states that the enhanced family planning FMAP of 90 percent is not available for the cost of a hysterectomy.

Of the \$18,156,409 in hysterectomy expenditures the State agency claimed for the period January 1, 2005, through December 31, 2009, it improperly claimed \$17,394,988 at the enhanced family planning FMAP of 90 percent. The remaining \$761,421 was claimed at the regular FMAP. To facilitate reporting sterilization expenditures on the CMS-64 report, the State agency programmed its computer system to aggregate amounts paid for services with billing codes that it considered to be related to sterilizations and inappropriately included hysterectomy billing codes. The State agency claimed most expenditures on the sterilization line at the enhanced family planning FMAP. As a result, the State agency inappropriately received additional Federal share totaling \$3,356,074.

The following table breaks down, by calendar year, the hysterectomy expenditures claimed at the enhanced family planning FMAP, the Federal share the State agency received for those expenditures, the Federal share calculated at the regular FMAP, and the resulting Federal share overpayments.

**Federal Share Overpayments for Hysterectomy Expenditures Claimed  
at the Enhanced Family Planning FMAP of 90 Percent**

<b>Calendar Year</b>	<b>Hysterectomy Expenditures Claimed at the Enhanced FMAP</b>	<b>Federal Share Received</b>	<b>Federal Share at the Regular FMAP</b>	<b>Federal Share Overpayments</b>
2005	\$1,440,162	\$1,296,146	\$1,002,715	\$293,431
2006	2,784,889	2,506,400	1,893,436	612,964
2007	3,776,965	3,399,269	2,562,183	837,085
2008	4,197,971	3,778,174	2,922,855	855,319
2009	5,195,001	4,675,500	3,918,226	757,275
<b>Total</b>	<b>\$17,394,988</b>	<b>\$15,655,489</b>	<b>\$12,299,415</b>	<b>\$3,356,074</b>

**RECOMMENDATIONS**

We recommend that the State agency:

- refund to the Federal Government the \$3,356,074 in overpayments the State agency received for hysterectomy expenditures claimed at the enhanced family planning FMAP,
- refund to the Federal Government any overpayments the State agency may have received for hysterectomy expenditures claimed at the enhanced family planning FMAP in quarters after our audit period, and
- discontinue claiming hysterectomy expenditures at the enhanced family planning FMAP.

**STATE AGENCY COMMENTS**

The State agency agreed with our finding and stated that it had removed all hysterectomy billing codes from the list of family planning codes in its computer system. The State agency's comments appear in their entirety as the Appendix.

# **APPENDIX**

## APPENDIX: STATE AGENCY COMMENTS

MIKE FOGARTY  
CHIEF EXECUTIVE OFFICER



MARY FALLIN  
GOVERNOR

### STATE OF OKLAHOMA OKLAHOMA HEALTH CARE AUTHORITY

April 18, 2011

Ms. Patricia Wheeler  
Department of Health and Human Services  
Office of Inspector General  
Office of Audit Services, Region VI  
1100 Commerce Street, Room 632  
Dallas, TX 75242

Re: Report Number: A-06-10-00047

Dear Ms. Wheeler:

Please find our responses below to the above referenced Audit Report:

**Finding:** The CMS State Medicaid Manual, section 4270(B)(2), states that the enhanced family planning FMAP of 90 percent is not available for the cost of a hysterectomy.

Of the \$18,156,409 in hysterectomy expenditures the State agency claimed for the period January 1, 2005, through December 31, 2009, it improperly claimed \$17,394,988 at the enhanced family planning FMAP of 90 percent.....As a result, the State agency inappropriately received additional Federal share totaling \$3,356,074.

**Response:** The Oklahoma Health Care Authority (OHCA) concurs with the audit finding and has taken the following corrective actions.

Section 1905(a) (4) (C) of the Act requires States to provide family planning services to Medicaid beneficiaries. Section 4270 of the "State Medicaid Manual" states that the purpose of the family planning benefit is ". . . to aid those who voluntarily choose not to risk an initial pregnancy," Section 4270 further defines family planning services to include those services that prevent or delay pregnancy or otherwise control family size. Pursuant to section 1903(a)(5) of the Act and 42 CFR §§ 432.50 and 433.15, States may claim 90-percent Federal funding for the costs of family planning services. CMS issued a summary of relevant law and policy, entitled "Title XIX Financial Management Review Guide (Number 20): Family Planning Services," to State agencies for their use in identifying family planning services under Title XIX.

Following the initial meeting, OHCA reviewed all of the codes that are included in the family planning MMIS table and updated any discrepancies that were pointed out by the OIG auditors. For the June and September 2010 quarters, the questioned codes were manually removed from the FP line on the 64 but as of the December 2010 quarter, the system had been completely updated to remove any questionable codes. All hysterectomy codes have been removed from both ICD-9 and HCPC. As recommended, we do not claim FP for procedure codes that fall into the 5800 series:

MIKE FOGARTY  
CHIEF EXECUTIVE OFFICER



MARY FALLIN  
GOVERNOR

STATE OF OKLAHOMA  
OKLAHOMA HEALTH CARE AUTHORITY

58150:58152:58180:58200:58210:58240:58260:58262:58263:58267:58270:58275:58280:58285:58290:58291:58292:58293:58294:58550:58552:58951:58953:58954:58956:59135:59525

Also, ICD-9 codes in the 68 series were removed for UB 92 claims:

68.0: 68.1:68.2:68.3:68.4:68.5:68.6:68.7:68.8:68.9: inclusive of all procedures within these groupings.

If you have any questions, or need any additional information, please contact me at (405) 522-7359.

Sincerely,

Carrie Evans  
Chief Financial Officer  
Oklahoma Health Care Authority