



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of Inspector General  
Offices of Audit Services

Region VII  
601 East 12th Street  
Room 284A  
Kansas City, Missouri 64106

March 26,2004

Report Number A-07-04-01002

Kevin Concannon  
Director  
Department of Human Services Director's Office  
Hoover State Office Building, 5<sup>th</sup> Floor  
Des Moines, IA 50319

Dear Mr. Concannon:

Enclosed are two copies of the U.S. Department of Health and Human Services (HHS), Office of Inspector General, Office of Audit Services' (OAS) report entitled "***Audit of Medicaid Provider Accounts Receivable Overpayments in Iowa***" for amounts claimed on the State's CMS 64 reports between January 1,2002 and December 31,2002. A copy of this report will be forwarded to the action official noted below for his 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, OAS 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-07-04-01002 in all correspondence relating to this report.

Sincerely yours,

  
James P. Aasmundstad  
Regional Inspector General  
for Audit Services

Enclosures - as stated

**Direct Reply to HHS Action Official:**

Mr. Joe Tilghman  
Centers for Medicare and Medicaid Services  
Regional Administrator, Region VII  
601 East 12<sup>th</sup> Street, Room 235  
Kansas City, Missouri 64106

**Department of Health and Human Services**

**OFFICE OF  
INSPECTOR GENERAL**

**AUDIT OF MEDICAID PROVIDER  
ACCOUNTS RECEIVABLE  
OVERPAYMENTS IN IOWA**



**MARCH 2004  
A-07-04-01002**

# ***Office of Inspector General***

**<http://oig.hhs.gov>**

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The Office of Counsel to the Inspector General (OCIG) provides general legal services to OIG, rendering advice and opinions on HHS programs and operations and providing all legal support in OIG's internal operations. The OCIG imposes program exclusions and civil monetary penalties on health care providers and litigates those actions within the department. The OCIG also represents OIG in the global settlement of cases arising under the Civil False Claims Act, develops and monitors corporate integrity agreements, develops model compliance plans, renders advisory opinions on OIG sanctions to the health care community, and issues fraud alerts and other industry guidance.

# Notices

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**THIS REPORT IS AVAILABLE TO THE PUBLIC  
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In accordance with the principles of the Freedom of Information Act, 5 U.S.C. 552, as amended by Public Law 104-231, Office of Inspector General, Office of Audit Services, reports are made available to members of the public to the extent information contained therein is not subject to exemptions in the Act. (See 45 CFR Part 5.)

## **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 awarding agency will make final determination on these matters.



## **EXECUTIVE SUMMARY**

### **OBJECTIVES**

The objectives of our audit were to determine whether records maintained by the Iowa Department of Human Services (Iowa) supported the accounts receivable for overpayments reported on the Centers for Medicaid and Medicare Services (CMS) 64 report and if Iowa developed adequate policies and procedures to ensure the collection of those overpayments.

### **SUMMARY OF FINDINGS**

We found Iowa lacked sufficient internal controls with regard to Medicaid accounts receivable overpayments. Specifically, Iowa did not:

- Account for overpayment receivables according to generally accepted accounting principles (GAAP),
- Report collections correctly on the CMS 64 report, and
- Meet the 60-day reporting requirement prescribed by Federal regulations.

These issues occurred because Iowa did not account for overpayment receivables in a formal bookkeeping system, follow the State Medicaid Manual reporting instructions, and develop adequate policies and procedures.

As a result, Iowa did not have reasonable assurance that receivable balances were accurate or effectively safeguarded and could not reconcile accounting records to the CMS 64. Therefore, amounts reported on the quarterly CMS 64 reports were not representative of actual results and the Federal share was not credited in the correct period.

### **RECOMMENDATIONS**

We recommend Iowa:

- Establish a general ledger control account and adequate subsidiary ledgers for Medicaid provider overpayment receivables as required by GAAP.
- Follow State Medicaid Manual instructions regarding what amounts should be reported on the different lines of the CMS 64 report.
- Develop written policies and procedures for processing and reporting Medicaid provider overpayments to ensure that the Federal share of overpayments that are not paid within 60 days is reported on the correct CMS 64 report as required by Federal regulations.

Iowa generally concurred with all of our findings and recommendations. In addition, Iowa shared details of steps it has taken to ensure implementation of our findings. Iowa's response is included in its entirety as Appendix A.

## INTRODUCTION

### BACKGROUND

#### **State Responsibility for Medicaid Overpayments Made to Providers**

The Medicaid program, established by Title XIX of the Social Security Act, provides grants to states for medical and health-related services to America's eligible low-income persons. This program is a jointly funded cooperative venture between the Federal and State governments.

CMS administers the Medicaid program at the Federal level and is responsible for ensuring that state Medicaid programs meet all Federal requirements. States are required to submit to CMS a comprehensive written State Plan that describes the nature and scope of its program. If the State Plan meets specific Federal requirements, then CMS matches the State's Medicaid spending through Federal Financial Participation (FFP). This amount is determined by a formula based on the State's per capita income.

Each state establishes or designates an agency to manage the Medicaid program. The Department of Human Services is the single state agency responsible for administering the Medicaid program in Iowa and has contracted with Affiliated Computer Services, Inc. (ACS) to act as its fiscal agent. That organization is responsible for identification and collection of most provider overpayments. Department employees process the remaining overpayments and collections.

#### **Statutory**

The primary authority cited by CMS in disallowing Federal financial participation (FFP) in overpayments to providers is section 1903(d)(2) of the Act. This section, as amended by section 9512 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), reads:

“(2)(A) The Secretary shall then pay to the State, in such installments as he may determine, the amount so estimated, reduced, or increased to the extent of any overpayment or underpayment which the Secretary determines was made under this section to such State for any prior quarter and with respect to which adjustment has not already been made under this subsection.

“(B) Expenditures for which payments were made to the State under subsection (a) shall be treated as an overpayment to the extent that the State or local agency administering such plan has been reimbursed for such expenditures by a third party pursuant to the provisions of its plan in compliance with section 1902(a)(25).

“(C) For purposes of this subsection, when an overpayment is discovered, which was made by a State to a person or other entity, the State shall have a period of 60 days in which to recover or attempt to recover such overpayment before adjustment is made in the Federal payment to such State on account of such overpayment. Except as otherwise provided in subparagraph (D), the adjustment in the Federal payment shall be made at the end of 60 days, whether or not recovery was made.

“(D) In any case where the State is unable to recover a debt which represents an overpayment (or any portion thereof) made to a person or other entity on account of such debt having been discharged in bankruptcy or otherwise being uncollectible, no adjustment shall be made in the Federal payment to such State on account of such overpayment (or portion thereof).”

Detailed instructions on calculating and reporting overpayment information for the Federal share are provided to the States in section 2500.4 of the State Medicaid Manual. If collections are not made within sixty days from the date of discovery, the State agencies are required to report the net overpayment amounts on line 10C of the CMS 64 report and repay the Federal share. Subsequent collections made for overpayments previously reported on line 10C need not be reported.

## **OBJECTIVES, SCOPE AND METHODOLOGY**

### ***Objectives***

The objectives of our audit were to determine whether records maintained by Iowa supported the accounts receivable overpayments reported on the CMS 64 report and if Iowa developed adequate policies and procedures to ensure the collection of those overpayments.

### ***Scope***

We examined all applicable Medicaid provider overpayment case files that were provided as support for the overpayments and collections amounts claimed on the State’s CMS 64 reports between January 1, 2002 and December 31, 2002. We reviewed 132 case files representing 100 percent of provider overpayments reported by Iowa for the period. Iowa reported \$701,495 as their ending receivable balance for the year.

We performed our audit in accordance with generally accepted government auditing standards. However, we limited our review of internal controls to policies and procedures related to Medicaid provider overpayments and the reporting of the overpayments and collections on the CMS 64 report filed quarterly by Iowa.

## ***Methodology***

To accomplish our objectives, we reviewed applicable Federal criteria including section 1903 of the Social Security Act, title 42 part 433 of the Code of Federal Regulations, and applicable sections of the State Medicaid Manual.

We reviewed documentation contained in provider case files provided by Iowa and ACS in order to determine the date of discovery, date(s) of collection activity, and whether any adjustments or write-offs occurred during the audit period. We further analyzed this information to determine whether overpayments were reported accurately and in compliance with time requirements.

We compared results of our file analyses to overpayment balances reported on the CMS 64 report to verify the accuracy of the amounts reported by Iowa. Finally, we interviewed ACS and DHS officials responsible for identifying and monitoring collections of overpayments. We discussed general overpayment procedures as well as specific variances identified during fieldwork with these officials.

Our fieldwork was conducted on-site at Iowa and ACS offices in Des Moines, Iowa from November 2003 through December 2003.

## **FINDINGS AND RECOMMENDATIONS**

We found Iowa lacked sufficient internal controls with regard to Medicaid accounts receivable overpayments. Specifically, Iowa did not:

- Account for overpayment receivables according to GAAP,
- Report collections correctly on the CMS 64 report, and
- Meet the 60-day reporting requirement prescribed by Federal regulations.

These issues occurred because Iowa did not account for overpayment receivables in a formal bookkeeping system, follow the State Medicaid Manual reporting instructions, and develop adequate policies and procedures.

As a result, Iowa did not have reasonable assurance that receivable balances were accurate or effectively safeguarded and could not reconcile accounting records to the CMS 64. Therefore, amounts reported on the quarterly CMS 64 reports were not representative of actual results and the Federal share was not credited in the correct period.

### **Receivables Were Not Accounted For According to GAAP.**

Iowa did not account for Medicaid provider overpayment receivables in accordance with GAAP or Federal regulations.

Title 45 sec. 74.21 paragraph (b)(3) of the Code of Federal Regulations requires that financial management systems provide for “Effective control over and accountability for all funds, property and other assets. Recipients shall adequately safeguard all such assets and assure they are used solely for authorized purposes.” Additionally, GAAP require the use of a general ledger. The National Council on Governmental Accounting (NCGA)<sup>1</sup> issued *Statement 1, Governmental Accounting and Financial Reporting Principles*. It states in part,

*A governmental accounting system must make it possible both: (a) to present fairly and with full disclosure the financial position and results of financial operations of the funds and account groups of the governmental unit in conformity with generally accepted accounting principles; and (b) to determine and demonstrate compliance with finance-related legal and contractual provisions.*

Neither Iowa nor its fiscal agent maintained a general ledger control account or adequate subsidiary accounts for Medicaid provider overpayment receivables. Overpayment receivables are “other assets” to the State that should be accounted for properly.

Because there was no general ledger control account for accounts receivable to reconcile to a subsidiary ledger, Iowa did not have reasonable assurance that receivable balances were accurate or effectively safeguarded. Therefore, accuracy of the amounts reported on the State’s CMS 64 reports was not reasonably ensured.

### **Collections and Overpayments Incorrectly Reported on the CMS 64 Report.**

Iowa incorrectly completed the CMS 64 report by including collections for previously reported overpayments. Specifically, Iowa reported collections twice, as both “Collections: Other” and again as “Adjustments Decreasing Claims For Prior Quarters – Overpayment Adjustments,” in order to offset the inclusion of amounts previously reported on the CMS 64 report.

According to the State Medicaid Manual 2500.4, the State agency has 60 days from the date of discovery to collect any overpayments they have identified. Collections made for those overpayments during that 60-day period should be reported in the CMS 64 report as “Collections Other” in another section of the report. Only those overpayments not collected within that period should be reported as “Overpayment Adjustments.” Therefore, subsequent collections of previously reported overpayment adjustments should not be reported again as collections.

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<sup>1</sup> The Governmental Accounting Standards Board (GASB) establishes standards for activities and transactions of State and local governmental entities. Its pronouncements are authoritative for State and local governmental entities. Following the jurisdictional approach discussed in the GASB Codification of Governmental Accounting and Financial Reporting Standards, the hierarchy of GAAP for governmental entities begins with GASB pronouncements and all pronouncements of the NCGA acknowledged as applicable by the GASB.

This finding occurred because Iowa did not have a sufficient accounting system in place to differentiate between collections for newly identified overpayments and previously reported overpayment adjustments. Iowa reported all collections made during the period, including those made for previously reported overpayments.

As a result, both collections and unpaid overpayments (newly identified receivables) were misstated on the CMS 64 report. Although Iowa's methodology appears to have resulted in a net offset, the amounts reported were not representative of its actual quarterly results and therefore, were unreliable.

### **Iowa's Return of Federal Share Did Not Meet the 60-Day Requirement.**

Iowa did not adhere to Federal regulations necessitating the disclosure of accounts receivable balances within 60 days of the date of discovery.

According to 42 CFR 433.320 the State agency has 60 days from the date of discovery to recover an overpayment before the Federal share must be refunded to CMS. The agency must credit the Federal share of overpayments on the CMS 64 report submitted for the quarter in which the 60-day period following discovery ends.

This finding occurred because Iowa did not develop written policies and procedures for processing and reporting Medicaid provider overpayments to ensure that the Federal share of overpayments that are not paid within 60 days is reported on the appropriate CMS 64 report.

As a result, Iowa did not credit the Federal share of overpayments in the correct period. Of the 132 cases we reviewed, Iowa delayed reporting 21 cases until the subsequent quarterly CMS 64 report and 4 cases were delayed at least two quarters. Thus, Iowa reported an ending receivable balance totaling \$701,495; however, we determined the balance should have been \$728,778.

### **RECOMMENDATIONS**

We recommend Iowa:

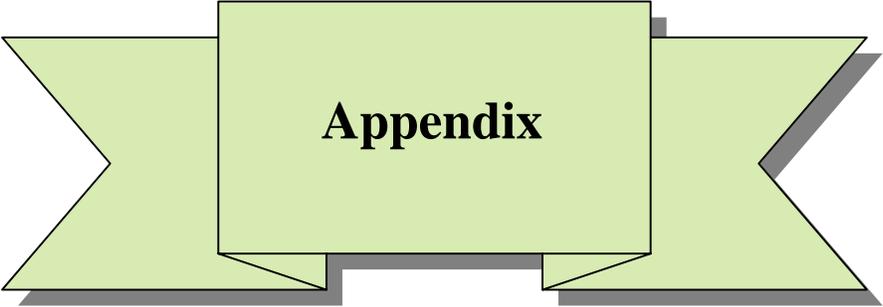
- Establish a general ledger control account and adequate subsidiary ledgers for Medicaid provider overpayment receivables as required by GAAP.
- Follow State Medicaid Manual instructions regarding what amounts should be reported on the different lines of the CMS 64 report.
- Develop written policies and procedures for processing and reporting Medicaid provider overpayments to ensure that the Federal share of overpayments that are not paid within 60 days is reported on the correct CMS 64 report as required by Federal regulations.

## **OTHER MATTER**

Iowa has no policies and procedures developed to recover the previously credited Federal share of receivables that may be considered uncollectible due to bankruptcy or due from a provider that is no longer in business. A recovery of the Federal share previously credited is allowed by Federal regulations at 42 CFR 433. Without such policies and procedures in place, Iowa not only overstates what they can reasonably expect to recover, but also does not take full advantage of all Federal funding allowed.

## **AUDITEE'S RESPONSE AND OIG COMMENTS**

Iowa generally concurred with our findings and recommendations and have initiated actions to address those issues. We commend Iowa for identifying appropriate corrective actions and incorporating improvements into its Medicaid overpayments recovery program. Iowa's response is included in its entirety as Appendix A.



**Appendix**



# STATE OF IOWA

THOMAS J. VILSACK, GOVERNOR  
SALLY J. PEDERSON, LT. GOVERNOR

DEPARTMENT OF HUMAN SERVICES  
KEVIN W. CONCANNON, DIRECTOR

MAR 22 2004

James P. Aasmundstad, Regional Inspector General for Audit Services  
HHS/OIG/OAS, Region VII  
Room 284A  
601 East 12<sup>th</sup> Street  
Kansas City, MO 64106

RE: AUDIT OF MEDICAID PROVIDER ACCOUNTS RECEIVABLE OVERPAYMENTS  
IN IOWA – AUDIT REPORT CIN: A-07-04-01002

Dear Mr. Aasmundstad:

This is in response to a draft report dated February 13, 2004, concerning the Office of Inspector General's (OIG) audit of Iowa's accounts receivable for Medicaid provider overpayments reported to the Centers for Medicare and Medicaid Services (CMS) during calendar year 2002. The Iowa Department of Human Services (DHS) is the state Medicaid agency.

The report describes three areas where OIG found that Iowa lacked sufficient internal controls with regard to accounts receivable for Medicaid provider overpayments, as well as one additional "other matter" related to provider overpayments. The attached response addresses each finding and recommendation individually as well as the "other matter." DHS appreciates the effort of OIG in conducting this audit and the opportunity to provide comments that will be incorporated into the final report.

Questions about the attached response can be addressed to:

Bob Krebs  
Iowa Department of Human Services, Division of Fiscal Management  
Hoover State Office Building, 1<sup>st</sup> Floor  
Des Moines, IA 50319  
Phone: (515) 281-6028 Fax: (515) 281-6237  
e-mail: [rkrebs@dhs.state.ia.us](mailto:rkrebs@dhs.state.ia.us)

Sincerely,

  
Kevin W. Concannon  
Director

**AUDIT OF MEDICAID PROVIDER ACCOUNTS RECEIVABLE  
OVERPAYMENTS IN IOWA – AUDIT REPORT CIN: A-07-04-01002  
Comments from the Iowa Department of Human Services (March 19,2004)**

**FINDINGS, RECOMMENDATIONS AND RESPONSES**

**Receivables Were Not Accounted For According to GAAP.**

***OIG Finding:***

Iowa did not account for Medicaid provider overpayment receivables in accordance with GAAP or Federal regulations.

Title 45 sec. 74.21 paragraph (b)(3) of the Code of Federal Regulations requires that financial management systems provide for "Effective control over and accountability for all funds; property and other assets. Recipients shall adequately safeguard all such assets and assure they are used solely for authorized purposes." Additionally, GAAP require the use of a general ledger. The National Council on Governmental Accounting (NCGA)<sup>1</sup> issued *Statement I, Governmental Accounting and Financial Reporting Principles*. It states in part,

A governmental accounting system must make it possible both: (a) to present fairly and with full disclosure the financial position and results of financial operations of the funds and account groups of the governmental unit in conformity with generally accepted accounting principles; and (b) to determine and demonstrate compliance with finance-related legal and contractual provisions.

Neither Iowa nor its fiscal agent maintained a general ledger control account or adequate subsidiary accounts for Medicaid provider overpayment receivables. Overpayment receivables are "other assets" to the State that should be accounted for properly.

Because there was no general ledger control account for accounts receivable to reconcile to a subsidiary ledger, Iowa did not have reasonable assurance that receivable balances were accurate or effectively safeguarded. Therefore, accuracy of the amounts reported on the State's CMS 64 reports was not reasonably ensured.

***Recommendation:***

We recommend Iowa establish a general ledger control account and adequate subsidiary ledgers for Medicaid provider overpayment receivables as required by GAAP.

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<sup>1</sup> The Governmental Accounting Standards Board (GASB) establishes standards for activities and transactions of State and local governmental entities. Its pronouncements are authoritative for State and local governmental entities. Following the jurisdictional approach discussed in the GASB Codification of Governmental Accounting and Financial Reporting Standards, the hierarchy of GAAP for governmental entities begins with GASB pronouncements and all pronouncements of the NCGA acknowledged as applicable by the GASB.

***DHS Response:***

DHS currently uses multiple information sources to account for Medicaid provider overpayments. For example, one source tracks overpayments identified through surveillance utilization reviews, while another source tracks overpayments resulting from DHS audits of home and community based service (HCBS) providers. Information from these sources is compiled by the DHS Division of Fiscal Management and used to complete the CMS 64 report. DHS's Medicaid fiscal agent, Affiliated Computer Services, Inc. (ACS), currently acts as a source in the identification of a substantial number of provider overpayments as well as having responsibility for collecting and/or processing reimbursement payments for nearly all provider overpayments, including those identified by other sources.

While the OIG findings do not identify any specific concerns regarding the accuracy or accountability of individual information sources currently used, DHS recognizes the need to evaluate these sources and identify areas for improvement. Accordingly, DHS had, prior to the initiation of the OIG audit, begun its own internal review of Medicaid provider overpayment procedures to improve consistency of the information and to ensure the accuracy of receivable balances and compliance with federal requirements.

Concurrent with this internal review, DHS is also in the preliminary stages of a process that may result in the procurement of one or more new vendors to perform the duties related to provider overpayments and collections now performed by ACS. This procurement process is scheduled to result in the selection of vendors by July 1, 2004, followed by a transition period to allow responsibilities associated with provider overpayments to be shifted to any new vendor(s). In conjunction with this procurement process, DHS is also transferring the operations management of the state's Medicaid Management Information System (MMIS) from the current fiscal agent to state-owned hardware.

As DHS completes the procurement process of one or more vendors to perform duties related to provider overpayments and the transfer of the MMIS to state-owned equipment, information learned from the review of current information sources concerning provider overpayments will be used to ensure continued effective controls and accountability for Medicaid provider overpayment receivables.

**Collections and Overpayments Incorrectly Reported on the CMS 64 Report.**

***OIG Finding:***

Iowa incorrectly completed the CMS 64 report by including collections for previously reported overpayments. Specifically, Iowa reported collections twice, as both "Collections: Other" and again as "Adjustments Decreasing Claims For Prior Quarters – Overpayment Adjustments," in order to offset the inclusion of amounts previously reported on the CMS 64 report.

According to the State Medicaid **Manual** 2500.4, the State agency has 60 days from the date of discovery to collect any overpayments they have identified. Collections made for those overpayments during that 60-day period should be reported in the CMS 64 report as "Collections Other" in **another** section of the report. Only those overpayments not collected within that period should be reported as "Overpayment Adjustments." Therefore, subsequent collections of previously reported overpayment adjustments should not be reported again as collections.

This finding occurred because Iowa did not have a sufficient accounting system in place to differentiate between collections for newly identified overpayments and previously reported overpayment **adjustments**. Iowa reported all collections made during the period, including those made for previously reported overpayments.

As a result, both collections and unpaid overpayments (newly identified receivables) were misstated on the CMS 64 report. Although Iowa's methodology resulted in a net offset, the amounts reported were not representative of its actual quarterly results and therefore, were **unreliable**.

***Recommendation:***

We recommend Iowa follow State Medicaid Manual instructions regarding what amounts should be reported on the different lines of the CMS 64 report.

***DHS Response:***

Iowa will implement a procedure to reflect as "Collections Other" or "Collections Fraud and Abuse" on the CMS-64 report, only those recoveries of overpayments 60 days or sooner from the date of discovery. Only those overpayments not collected within that period will be reported as "**Overpayments not Collected**" on form 64.90 of the CMS 64 submission.

The statement in the third paragraph of this section that "this finding occurred because Iowa did not have a sufficient accounting system in place to differentiate between collections for newly identified overpayments and previously reported overpayments" is not accurate. The DHS Division of Fiscal Management has files set up to track the amount of overpayments recovered from previously reported overpayments. These are the amounts that were reported on the CMS 64 Medicaid Overpayments Adjustments form 64.90 on line 2 as a decreasing overpayment adjustment in the past. This was done to offset the inclusion of these same amounts as collections elsewhere on the 64 report for those monies received by the **Department** from its fiscal agent.

Iowa will implement the change in this reporting practice beginning with the quarterly CMS 64 report submitted for the March 2004 quarter.

## **Iowa's Return of Federal Share Did Not Meet the 60-Day Requirement.**

### *OIG Finding:*

Iowa did not adhere to Federal regulations necessitating the disclosure of accounts receivable balances within 60 days of the date of discovery.

According to 42 CFR 433.320 the State agency has 60 days from the date of discovery to recover an overpayment before the Federal share must be refunded to CMS. The agency must credit the Federal share of overpayments on the CMS 64 report submitted for the quarter in which the 60-day period following discovery ends.

This finding occurred because Iowa did not develop written policies and procedures for processing and reporting Medicaid provider overpayments to ensure that the Federal share of overpayments that are not paid within 60 days is reported on the appropriate CMS 64 report.

As a result, Iowa did not credit the Federal share of overpayments in the correct period. Of the 132 cases we reviewed, Iowa delayed reporting 28 cases until subsequent quarterly CMS 64 reports. Thus, Iowa reported an ending receivable balance totaling \$701,495; however, we **determined** the balance should have been \$728,778.

### *Recommendation:*

We recommend Iowa develop written policies and procedures for processing and reporting Medicaid provider overpayments to ensure that the Federal share of overpayments that are not paid within 60 days is reported on the correct CMS 64 report as required by Federal regulations.

### *DHS Response:*

DHS will adhere to the requirement that the state agency credit the Federal share on the CMS 64 report for any overpayments not recovered 60 days after the date of discovery. The credit will occur in the quarter in which the 60-day period following discovery ends. DHS will implement this practice beginning with the quarterly CMS 64 report submitted for the March, 2004 quarter.

## **OTHER MATTER**

Iowa has no policies and procedures developed to recover the previously credited Federal share of receivables that may be considered uncollectible due to bankruptcy or due from a provider that is no longer in business. A recovery of the Federal share previously credited is allowed by Federal regulations at 42 CFR 433. Without such policies and procedures in place, Iowa not only overstates what they can reasonably expect to recover, but also does not take full advantage of all Federal funding allowed.

***DHS Response:***

DHS agrees that it does not currently have its own policies and procedures to recover the previously credited federal share of receivables that may be considered uncollectible due to bankruptcy or due from a provider that is no longer in business. As noted by OIG, the treatment of overpayments involving such providers is addressed in both federal regulations at 42 CFR 433.318 and at sections 2853.4 and 2500.4 of the State Medicaid Manual maintained by the Centers for Medicare and Medicaid Services (CMS).

The regulations and Medicaid Manual provide basic instructions to states for determining when a provider has gone out of business; however, both rely on state law provisions to **establish** the effective date that the business terminated and for determining the appropriate legal authority that can certify or otherwise attest to the businesses termination. Iowa's statutory provisions concerning the dissolution or other termination of a business and the resulting ramifications regarding any continued legal liability by any party for debts of the business can be very complex and vary by type of business; i.e., corporation vs. partnership vs. limited **partnership**. In some instances, especially with respect to sole proprietorships, there may not be a statutory basis for determining when the provider has terminated business operations, nor any statutory authority conferred on any specific entity for making such a determination.

Given the complexity of the statutory provisions involved and the infrequency at which a Medicaid provider having an outstanding overpayment goes out of business, DHS will evaluate whether it is cost effective to determine to what extent Iowa law specifically addresses under what conditions a business legally ceases to exist and what entity, if any, is statutorily authorized to certify or attest to this fact. The State Attorney General's Office does not have this authority; however, in some instances another state office such as the Secretary of State may. DHS also contends that the regulation and Medicaid Manual too narrowly define how the state Medicaid agency may determine a provider has gone out of business and that the Medicaid agency should be allowed to make this determination through other reasonable means that can be documented.