



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of Inspector General

Office of Audit Services, Region VII
601 East 12th Street, Room 0429
Kansas City, MO 64106

February 11, 2011

Report Number: A-07-10-03149

Mr. Charles M. Palmer
Director
Iowa Department of Human Services
Hoover State Office Building, Fifth Floor
1305 East Walnut Street
Des Moines, IA 50319-0114

Dear Mr. Palmer:

Enclosed is the U.S. Department of Health & Human Services (HHS), Office of Inspector General (OIG), final report entitled *Review of Medicaid Excluded Providers in Iowa*. 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 (816) 426-3591, or contact Dan Bittner, Audit Manager, at (515) 284-4674, extension 23, or through email at Dan.Bittner@oig.hhs.gov. Please refer to report number A-07-10-03149 in all correspondence.

Sincerely,

/Patrick J. Cogley/
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
EXCLUDED PROVIDERS
IN IOWA**



Daniel R. Levinson
Inspector General

February 2011
A-07-10-03149

Office of Inspector General

<http://oig.hhs.gov>

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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 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.

CMS reimburses State Medicaid agencies based on the Federal medical assistance percentage for claimed Medicaid expenditures, including Medicaid expenditures for items and services furnished, ordered, or prescribed by providers enrolled in the State's Medicaid program.

The U.S. Department of Health & Human Services, Office of Inspector General (OIG), under Congressional mandate, established a program to exclude individuals and entities affected by various legal authorities contained in sections 1128 and 1128A of the Act. The effect of an exclusion (not being able to participate) is that no payment will be made by the Medicaid program for any items and services furnished, ordered, or prescribed by an excluded individual or entity. This payment prohibition applies to the excluded person, anyone who employs or contracts with the excluded person, any hospital or other provider where the excluded person provides services, and anyone else. The exclusion applies regardless of who submits the claims and applies to all administrative and management services furnished by the excluded person. There is a limited exception to exclusions for the provision of certain emergency items or services not provided in a hospital emergency room.

In Iowa, the Department of Human Services (State agency) administers the Medicaid program, in part by developing and maintaining internal controls. The State agency is responsible for enrolling new providers and maintaining provider records for all Iowa Medicaid provider types. Billing providers file Medicaid claims with the State agency.

OBJECTIVE

Our objective was to determine whether the State agency's internal controls were adequate to prevent Medicaid payments for any items and services furnished, ordered, or prescribed by an excluded individual or entity for the period January 1, 2006, through December 31, 2008.

SUMMARY OF FINDINGS

The State agency did not have adequate internal controls to prevent some Medicaid payments for items and services furnished, ordered, or prescribed by an excluded individual or entity. Specifically, for the period January 1, 2006, through December 31, 2008, the State agency made \$72,930 (\$45,215 Federal share) in improper payments, which included:

- \$51,808 (\$32,070 Federal share) for drugs prescribed by excluded providers and
- \$21,122 (\$13,145 Federal share) for items and services provided by excluded providers.

The State agency's policies and procedures did not make provisions to prevent improper Medicaid payments for drugs prescribed by excluded providers because the State believed that these claims were allowable. On the basis of this belief, the State agency did not put internal controls in place to prevent drugs that were prescribed by excluded providers from being claimed for Federal reimbursement.

In addition, during the period of this review the State agency did not have adequate written policies and procedures to prevent improper Medicaid payments for items and services from excluded providers. Subsequent to the period of our review, the State agency developed and implemented written policies and procedures to identify and reject these claims and to prevent improper payments.

RECOMMENDATIONS

We recommend that the State agency:

- refund \$45,215 to the Federal Government for the improper Medicaid payments for items and services provided or prescribed by excluded individuals; and
- strengthen internal controls to prevent excluded providers from participating in the Medicaid program, specifically by developing and implementing policies and procedures to ensure that payments are not made for any items and services furnished, ordered, or prescribed by an excluded individual or entity.

STATE AGENCY COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE

In written comments on our draft report, the State agency concurred with our recommendations and described corrective actions that it had implemented or planned to implement. We did not verify the corrective actions.

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

TABLE OF CONTENTS

	<u>Page</u>
INTRODUCTION	1
BACKGROUND	1
Medicaid Program.....	1
Excluded Providers	1
Iowa Medicaid Program.....	2
OBJECTIVE, SCOPE, AND METHODOLOGY	2
Objective	2
Scope	2
Methodology	3
FINDINGS AND RECOMMENDATIONS	4
IMPROPERLY CLAIMED DRUGS PRESCRIBED BY EXCLUDED PROVIDERS	4
IMPROPERLY CLAIMED ITEMS AND SERVICES PROVIDED BY EXCLUDED PROVIDERS	5
RECOMMENDATIONS	6
STATE AGENCY COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE	6
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 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.

CMS reimburses State Medicaid agencies based on the Federal medical assistance percentage for claimed Medicaid expenditures, including Medicaid expenditures for items and services furnished, ordered, or prescribed by providers enrolled in the State's Medicaid program.

Excluded Providers

The U.S. Department of Health & Human Services, Office of Inspector General (OIG), under Congressional mandate, established a program to exclude individuals and entities affected by various legal authorities contained in sections 1128 and 1128A of the Act. The effect of an exclusion (not being able to participate) is that no payment will be made by the Medicaid program for any items and services furnished, ordered, or prescribed by an excluded individual or entity. This payment prohibition applies to the excluded person, anyone who employs or contracts with the excluded person, any hospital or other provider where the excluded person provides services, and anyone else. The exclusion applies regardless of who submits the claims and applies to all administrative and management services furnished by the excluded person. There is a limited exception to exclusions for the provision of certain emergency items or services not provided in a hospital emergency room.

Federal regulations at 42 CFR § 1001 specify certain bases upon which OIG may, or in some cases must, exclude individuals and entities from participation in Medicaid and other Federal health care programs. Federal regulations at 42 CFR § 1002 specify the authority of State agencies to exclude individuals and entities from participation in their respective Medicaid programs.

To administer this program, OIG maintains a database of all currently excluded parties called the List of Excluded Individuals/Entities (LEIE). In addition, CMS maintains a database called the Medicare Exclusion Database (MED). Pursuant to a CMS State Medicaid Directors Letter dated June 12, 2008, States should conduct searches monthly via the LEIE or the MED to capture exclusions and reinstatements that have occurred since the last search.

List of Excluded Individuals/Entities

The LEIE is a database that provides information about parties excluded from participation in Medicare, Medicaid, and all other Federal health care programs. The LEIE is available on the OIG's website in two formats: an online search engine and a downloadable version of the database. The online search engine identifies currently excluded individuals and entities. When a match is identified, it is possible for the searcher to verify the accuracy of the match using the Social Security Number (SSN) or Employer Identification Number (EIN). The downloadable version of the database may also be compared against State agency provider enrollment files. However, unlike the online search engine, the downloadable version of the database does not contain SSNs or EINs.

Medicare Exclusion Database

In 2002, CMS developed the MED to collect and retrieve information that aided in ensuring that no payments are made to excluded individuals and entities for services furnished during a provider's exclusion period. Two of the information sources used in populating the MED are the LEIE and the Social Security Administration. MED files contain a variety of identifiable and general information including name, SSN, EIN, and National Provider Identifier (NPI). CMS provides the MED files to State Medicaid agencies every month.

Iowa Medicaid Program

In Iowa, the Department of Human Services (State agency) administers the Medicaid program, in part by developing and maintaining internal controls. The State agency is responsible for enrolling new providers and maintaining provider records for all Iowa Medicaid provider types. Billing providers file Medicaid claims with the State agency.

The State agency contracts with Iowa Medicaid Enterprise (IME) to maintain its Medicaid Management Information System (MMIS), a computerized payment and information reporting system that processes Iowa's Medicaid claims. The State agency retains overall responsibility for developing and maintaining internal controls to help administer the Medicaid program. The State agency uses both the LEIE and the MED to help administer the State's Medicaid program.

OBJECTIVE, SCOPE, AND METHODOLOGY

Objective

Our objective was to determine whether the State agency's internal controls were adequate to prevent Medicaid payments for any items and services furnished, ordered, or prescribed by an excluded individual or entity for the period January 1, 2006, through December 31, 2008.

Scope

We reviewed Medicaid claim line items processed by the State agency with dates of services from January 1, 2006, through December 31, 2008. We did not review the overall internal control structure of the State agency or the Medicaid program because our objective did not

require us to do so. Rather, we reviewed only the internal controls that pertained to our objective.

We performed fieldwork at the State agency in Des Moines, Iowa, from March to August 2010.

Methodology

To accomplish our objective, we:

- reviewed applicable Federal laws, regulations, and guidance;
- held discussions with State agency officials to gain an understanding of State agency policies, procedures, and guidance;
- obtained the LEIE (as of May 31, 2009) and MED (as of April 2010) databases;
- obtained the State agency's Medicaid provider database;
- matched the MED¹ to the State agency's Medicaid provider database using the provider's SSN, NPI, UPIN, or business name and address;
- obtained the Medicaid line items (for the Medicaid providers that matched to the MED) for claims that were processed by the State agency with dates of services from January 1, 2006, through December 31, 2008;
- obtained and reviewed the supporting documentation for each claim the State agency had adjusted;
- calculated the Medicaid payments that were made during that provider's exclusion period by the State agency;
- determined whether any of the excluded providers involved in the Medicaid payments had been granted waivers of their exclusion by OIG; and
- discussed our findings with State agency officials on October 18, 2010.

We calculated the Federal share of the expenditures using the lowest Federal medical assistance percentage (61.73 percent to 68.82 percent) applicable for each quarter.

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

¹ We used the MED in our analysis because it contained SSNs, NPIs, and Unique Physician Identification Number (UPIN), all of which also appeared in the State agency's provider database. The LEIE downloadable database did not contain SSNs or NPIs.

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 objective.

FINDINGS AND RECOMMENDATIONS

The State agency did not have adequate internal controls to prevent some Medicaid payments for items and services furnished, ordered, or prescribed by an excluded individual or entity. Specifically, for the period January 1, 2006, through December 31, 2008, the State agency made \$72,930 (\$45,215 Federal share) in improper payments, which included:

- \$51,808 (\$32,070 Federal share) for drugs prescribed by excluded providers and
- \$21,122 (\$13,145 Federal share) for items and services provided by excluded providers.

The State agency's policies and procedures did not make provisions to prevent improper Medicaid payments for drugs prescribed by excluded providers because the State believed that these claims were allowable. On the basis of this belief, the State agency did not put internal controls in place to prevent drugs that were prescribed by excluded providers from being claimed for Federal reimbursement.

In addition, during the period of this review the State agency did not have adequate written policies and procedures to prevent improper Medicaid payments for items and services from excluded providers. Subsequent to the period of our review, the State agency developed and implemented written policies and procedures to identify and reject these claims and to prevent improper payments.

IMPROPERLY CLAIMED DRUGS PRESCRIBED BY EXCLUDED PROVIDERS

Pursuant to 42 CFR § 1001.2: "*Exclusion* means that items and services furnished, ordered or prescribed by a specified individual or entity will not be reimbursed under Medicare, Medicaid and all other Federal health care programs until the individual or entity is reinstated by the OIG." (Italics in original.)

With respect to these reimbursements, or payments, 42 CFR § 1002.211 (a) states:

[N]o payment may be made by the State agency for any item or service furnished on or after the effective date specified in the notice ... on the prescription of a physician who is excluded when a person furnishing such item or service knew, or had reason to know, of the exclusion.

The State agency did not have internal controls in place to verify whether drug prescriptions were written by excluded providers. As a result, the State agency made \$51,808 (\$32,070 Federal share) in improper payments for drugs prescribed by excluded providers for the period January 1, 2006, through December 31, 2008. The State agency's policies and procedures did not make provisions to reject claims for drugs prescribed by excluded providers because the

State agency misinterpreted Medicaid regulations and contended that these claims were allowable due to the fact that the payments were not being made to the excluded provider. On the basis of this belief, the State agency did not put internal controls in place to prevent drugs that were prescribed by excluded providers from being claimed for Federal reimbursement.

IMPROPERLY CLAIMED ITEMS AND SERVICES PROVIDED BY EXCLUDED PROVIDERS

Pursuant to 42 CFR § 1001.2: “*Exclusion* means that items and services furnished, ordered or prescribed by a specified individual or entity will not be reimbursed under Medicare, Medicaid and all other Federal health care programs until the individual or entity is reinstated by the OIG.” (Italics in original.)

With respect to these reimbursements, or payments, 42 CFR § 1002.211 (a) states:

[N]o payment may be made by the State agency for any item or service furnished on or after the effective date specified in the notice by an excluded individual or entity... who is excluded when a person furnishing such item or service knew, or had reason to know, of the exclusion.

Although the State agency had internal controls in place to verify whether items and services provided by excluded providers complied with Federal requirements, the State agency made \$21,122 (\$13,145 Federal share) in improper payments for items and services furnished by excluded providers for the period January 1, 2006, through December 31, 2008.

During the period of this review the State agency did not have adequate internal controls in the form of written policies and procedures to enable it to reject claims for items and services from excluded providers. The policies and procedures that were in place for the period of this review did not specifically address the steps necessary to identify the claims that resulted in improper payments. Consequently, personnel turnover within the State agency resulted in extended periods of time in which the State agency employees charged with management and oversight of the Medicaid program were unaware of, and thus did not implement, the exact procedures necessary to appropriately identify and reject claims associated with excluded providers.

The State agency’s written procedures governing claims from excluded providers were initially published on March 16, 2009 (after the period of our review), and did not address recoupment of improper payments or the use of the MED or the LEIE to identify excluded providers. The State agency published updated written procedures, which identified the specific steps necessary to prevent improper payments resulting from claims submitted by or on behalf of excluded providers, on April 23, 2010.

RECOMMENDATIONS

We recommend that the State agency:

- refund \$45,215 to the Federal Government for the improper Medicaid payments for items and services provided or prescribed by excluded individuals; and
- strengthen internal controls to prevent excluded providers from participating in the Medicaid program, specifically by developing and implementing policies and procedures to ensure that payments are not made for any items and services furnished, ordered, or prescribed by an excluded individual or entity.

STATE AGENCY COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE

In written comments on our draft report, the State agency concurred with our recommendations and described corrective actions that it had implemented or planned to implement. The State agency said that, as part of its corrective action, it had identified additional claims totaling \$14,978 (\$10,847 Federal share) that it had paid after our audit period for items and services furnished, ordered, or prescribed by an excluded provider. The State agency added that it will refund to the Federal Government both the \$10,847 Federal share of these improper payments identified by the State agency and the \$45,215 identified in our first recommendation.

The State agency also stated that it plans to build new edits into its automated systems by February 1, 2011, to deny claims in circumstances when the referring or prescribing provider is excluded. Furthermore, the State agency said that it has notified or plans to notify beneficiaries who are using an active excluded provider that prescriptions written by the excluded provider would not be covered by Medicaid and that it was recommending to those beneficiaries that they seek another provider. We did not verify the corrective actions.

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

APPENDIX

APPENDIX: STATE AGENCY COMMENTS



STATE OF IOWA

TERRY E. BRANSTAD, GOVERNOR
KIM REYNOLDS, LT. GOVERNOR

JAN 25 2011

DEPARTMENT OF HUMAN SERVICES
CHARLES M. PALMER, DIRECTOR

Patrick J. Cogley
Regional Inspector General for Audit Services
Office of Inspector General
Region VII
601 East 12th Street, Room 0429
Kansas City, MO 64106

RE: *Review of Medicaid Excluded Providers in Iowa* at the Iowa Department of Human Services Report Number: A-07-10-03149

Dear Mr. Cogley:

Enclosed please find comments from the Iowa Department of Human Services (DHS) on the December 29, 2010 draft report concerning Office of Inspector General's (OIG) *Review of Medicaid Excluded Providers in Iowa*.

DHS appreciates the opportunity to respond to the draft report and provide additional comments to be included in the final report. Questions about the attached response can be addressed to:

Jody Lane-Molnari, Executive Officer
Division of Fiscal Management
Iowa Department of Human Services
Hoover State Office Building, 1st Floor SW
1305 E Walnut Street
Des Moines, IA 50319-0114

Email: jlanelmo@dhs.state.ia.us
Phone: 515-281-6027

Sincerely,

A handwritten signature in cursive script that reads "C. M. Palmer".

Charles M. Palmer
Director

✓cc: Dan Bittner, Audit Manager
Attachment

- 2 -

**Iowa Department of Human Services
Response To OIG Draft Report:**

**Review of Medicaid Excluded Providers in Iowa
At the Iowa Department of Human Services
Report Number: A-07-10-03149**

Background

In Iowa, the Department of Human Services administers the Medicaid program, in part by developing and maintaining internal control. DHS is responsible for enrolling new providers and maintaining provider control records for all Iowa Medicaid provider types. Billing providers file Medicaid claims with DHS.

OIG's evaluation of the adequacy of the internal controls found that DHS did not have adequate internal controls to prevent some Medicaid payments for items and services furnished, ordered, or prescribed by an excluded individual or entity.

DHS policies and procedures did not make provisions to prevent improper Medicaid payments for drugs prescribed by excluded providers because the State believed that these claims were allowable. On the basis of this belief, DHS did not put internal controls in place to prevent drugs that were prescribed by excluded providers from being claimed for Federal reimbursement.

In addition, during the period of this review, DHS did not have adequate written policies and procedures to prevent improper Medicaid payments for items and services from excluded providers. Subsequent to the period of the review, DHS developed and implemented written policies and procedures to identify and reject these claims and to prevent improper payments.

OIG Findings and Recommendation

DHS did not have adequate internal controls to prevent some Medicaid payments for items and services furnished, ordered, or prescribed by an excluded individual or entity.

Specifically, for the period January 1, 2006, through December 31, 2008, DHS made \$72,930 (\$45,215 Federal share) in improper payments. These improper payments included:

- \$51,808 (\$32,070 Federal share) for drugs prescribed by excluded providers and
- \$21,122 (\$13,145 Federal share) for items and services provided by excluded providers.

OIG recommends that DHS:

- Refund \$45,215 to the Federal Government for the improper Medicaid payments for items and services provided or prescribed by excluded individuals; and

- 3 -

- Strengthen internal controls to prevent excluded providers from participating in the Medicaid program, specifically by developing and implementing policies and procedures to ensure that payments are not made for any items and services furnished, ordered, or prescribed by an excluded individual or entity.

DHS Response

DHS concurs with both of the recommendations as detailed below. Following are the corrective actions taken and planned for the findings:

Claims Paid for Dates after 12/31/2008 and through 10/31/2010:

Staff of the Iowa Medicaid Enterprise (IME) matched Medicaid payments for claims paid after 12/31/2008, and through 10/31/2010, for items and services furnished, ordered, or prescribed by an excluded individual or entity. For this period, DHS made \$14,978 (\$10,847 Federal share) in improper payments relating to two excluded providers who referred Medicaid members for treatment or who prescribed drugs. The federal share of these payments, plus the federal share of the payments previously identified by the OIG (\$45,215 federal share) will be repaid by the Department.

One of the two excluded providers discontinued as a provider for the Medicaid program in August 2009 and has not been associated with any paid claims since August 31, 2009. The other provider was actively referring and prescribing at the time of the data match. IME has manually intervened and notified the pharmacies filling prescriptions for this provider that (he) is excluded and that IME will no longer pay for prescriptions written by him. Medicaid Members receiving the prescriptions were called by staff of the IME Member Services Unit and told that IME would no longer pay for any prescriptions written by the excluded provider, and recommended that they seek another provider for their ongoing pharmacy needs. For those members that were unable to be contacted by phone, a letter was sent informing them of such. (See attached.)



RX.Non Medicaid
Provider v1.do...

A final match will be performed in February 2011, after the systems changes are implemented (discussed next), and the federal share of any matches will also be repaid.

Claims Payment Systems Changes

The Medicaid Management Information System (MMIS) and the Pharmacy Point-of-Sale (POS) system adjudicate Medicaid claims. Currently, both systems deny claims when the provider **furnishing** the item or service is excluded. (The provider record reflects an exclusionary code when a provider is excluded.)

- 4 -

The referring (ordering) or prescribing provider information (provider identification number) is captured in the claims processing systems. However, during the adjudication process, there are no edits associated with these fields. The IME has initiated programming changes to deny claims when the referring (ordering) or prescribing provider is excluded. These changes will be completed and in production by February 1, 2011.



STATE OF IOWA

CHESTER J. CULVER, GOVERNOR
PATTY JUDGE, LT. GOVERNOR

DEPARTMENT OF HUMAN SERVICES
CHARLES J. KROGMEIER, DIRECTOR

DATE

First_Name Last_Name
Address_1
Address_2
City, State Zip_Code

Dear First_Name Last_Name,

Our records indicate that you are currently being prescribed medications by Provider_Name, who is not enrolled with the Iowa Medicaid program. You will no longer be able to have your prescriptions written by this doctor and have Iowa Medicaid pay for them. Please make an appointment with a doctor that is enrolled with Iowa Medicaid. Ask your new doctor to prescribe your current medications so that Iowa Medicaid may continue making payment on your prescriptions.

If you have any questions, please contact Iowa Medicaid Member Services at 1-800-338-8366 or locally in the Des Moines area at 515-256-4606.

Sincerely,

Iowa Medicaid Member Services

Call or write the **Member Services Call Center** at:

PO Box 36510, Des Moines, Iowa 50315 – (800) 338-8366; (515) 256-4606 (local in the Des Moines area)
Please visit our website at www.ime.state.ia.us or e-mail us at IMEMemberServices@dhs.state.ia.us

IOWA MEDICAID ENTERPRISE – 100 ARMY POST ROAD - DES MOINES, IA 50315