



June 30, 2010

Report Number: A-07-10-04157

Andrew Allison, Ph.D.  
Executive Director  
Kansas Health Policy Authority  
Room 900-N Landon State Office Building  
Topeka, KS 66612

Dear Dr. Allison:

Enclosed is the U.S. Department of Health & Human Services (HHS), Office of Inspector General (OIG), final report entitled *Review of Family Planning Pharmacy Claims Submitted by Selected Providers Under the State of Kansas Medicaid Program*. 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 Debra Keasling, Audit Manager, at (816) 426-3213 or through email at [Debra.Keasling@oig.hhs.gov](mailto:Debra.Keasling@oig.hhs.gov). Please refer to report number A-07-10-04157 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 FAMILY PLANNING  
PHARMACY CLAIMS  
SUBMITTED BY  
SELECTED PROVIDERS  
UNDER THE STATE OF KANSAS  
MEDICAID PROGRAM**



Daniel R. Levinson  
Inspector General

June 2010  
A-07-10-04157

# ***Office of Inspector General***

<http://oig.hhs.gov>

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Section 8L of the Inspector General Act, 5 U.S.C. App., requires that  
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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. In Kansas, the Kansas Health Policy Authority (State agency) is responsible for administering the Medicaid program.

The amount of funding that the Federal Government reimburses to State Medicaid agencies, known as Federal financial participation (FFP) or alternatively as the Federal share, is determined by the Federal medical assistance percentage (FMAP). The State agency's FMAP ranged from 59.43 percent to 68.31 percent for claims paid from July 1, 2005, through June 30, 2009.

Federal requirements also make provisions for various specified services to be reimbursed at higher (that is, enhanced) rates of FFP. Section 1903(a)(5) of the Act and 42 CFR §§ 433.10(c)(1) and 433.15(b)(2) authorize reimbursement at an enhanced 90-percent FFP rate for family planning services. Section 4270 of the CMS *State Medicaid Manual* defines family planning services as those that prevent or delay pregnancy or otherwise control family size.

The Family Planning program provides enhanced 90-percent FFP reimbursement for certain prescription drugs. Most of the drugs covered as family planning services and reimbursable at the 90-percent FFP rate are used for birth control or for the stimulation of ovulation in infertile women. Other medications that are allowable at the 90-percent FFP rate are used incident to, or as part of, procedures performed for family planning purposes, such as pain medications following a sterilization procedure. During State fiscal years 2006 through 2009, the State agency had claims for family planning prescription drugs of \$3,580,597 (\$3,222,537 Federal share).

### **OBJECTIVE**

Our objective was to determine whether the family planning pharmacy claims submitted by providers and claimed by the State agency at the enhanced 90-percent FFP rate from July 1, 2005, through June 30, 2009, were allowable pursuant to Federal requirements.

### **SUMMARY OF FINDINGS**

Not all of the family planning pharmacy claims submitted by providers and claimed by the State agency at the enhanced 90-percent FFP rate from July 1, 2005, through June 30, 2009, were allowable pursuant to Federal requirements. Of the 100 claims in our sample, 69 qualified as family planning services and could be claimed for reimbursement at the enhanced 90-percent FFP rate. However, the remaining 31 claims in our sample totaling \$201 (Federal share) were not allowable for reimbursement at the enhanced 90-percent FFP rate because the

services in question could not be claimed as family planning services pursuant to Federal requirements. Specifically, of the 31 remaining claims, the State agency claimed drug costs for:

- 17 services related to beneficiaries who were pregnant,
- 8 services that were unrelated to family planning, and
- 6 services that lacked sufficient supporting documentation.

Based on the results of our sample, we estimated that the State agency received \$151,526 in unallowable Federal reimbursement. These errors occurred because the Medicaid Management Information System's (MMIS) edits did not always correctly identify claims for reimbursement at the enhanced 90-percent FFP rate.

## **RECOMMENDATIONS**

We recommend that the State agency:

- refund \$151,526 to the Federal Government and
- strengthen internal controls to ensure that MMIS edits appropriately identify claims that are ineligible for reimbursement at the enhanced 90-percent FFP rate.

## **STATE AGENCY COMMENTS**

In written comments to our draft report, the State agency did not directly address our findings and recommendations. The State agency said that it would work with CMS to determine the timing and amount of Medicaid funds that the State agency should refund to the Federal Government. Regarding our second recommendation, the State agency alluded to difficulties in confirming cases in which family planning prescription drugs were used for other purposes, and said that it would "create edits and audits ... for future claims for family planning services when CMS identifies a practical method of distinguishing claims for medicinal contraceptives that are prescribed for other purposes." The State agency added that our recommendation "to ensure contraceptives are never submitted for enhanced match, and to ensure this by requiring providers to create a unique and unprecedented process for marking each prescription of contraceptives with the diagnosis, places undue and disproportionate burden on providers, increases administrative costs for the state, and is therefore not feasible."

The State agency's written comments also referred to a third recommendation, which does not appear in our final report. The State agency's comments are included in their entirety as Appendix C.

## **OFFICE OF INSPECTOR GENERAL RESPONSE**

Nothing in the State agency's comments caused us to change our findings and recommendations. The State agency did not address the majority of the unallowable claims identified in our statistical sample. Accordingly, we continue to believe that the State agency should strengthen its internal controls to ensure that services unrelated to family planning are not claimed at the enhanced 90-percent family planning FFP rate.

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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.

#### **State of Kansas Medicaid Program**

In Kansas, the Kansas Health Policy Authority (State agency) is responsible for administering the Medicaid program. The State agency contracts with HP Enterprise Services (formerly Electronic Data Systems) to maintain its Medicaid Management Information System (MMIS), a computerized payment and information reporting system that processes and pays Medicaid claims.

The amount of funding that the Federal Government reimburses to State Medicaid agencies, known as Federal financial participation (FFP) or alternatively as the Federal share, is determined by the Federal medical assistance percentage (FMAP). The State agency's FMAP ranged from 59.43 percent to 68.31 percent for claims paid from July 1, 2005, through June 30, 2009. Federal requirements also make provisions for various specified services to be reimbursed at higher (that is, enhanced) rates of FFP.

#### **Medicaid Coverage of Family Planning Services**

Section 1905(a)(4)(C) of the Act requires States to furnish family planning services and supplies to individuals of childbearing age (including minors who can be considered to be sexually active) who are eligible under the State plan and who desire such services and supplies. Section 1903(a)(5) of the Act and 42 CFR §§ 433.10(c)(1) and 433.15(b)(2) authorize reimbursement at an enhanced 90-percent FFP rate for family planning services.

Section 4270 of the CMS *State Medicaid Manual* (the manual) defines family planning services as those that prevent or delay pregnancy or otherwise control family size. In addition, this provision of the manual generally permits an enhanced 90-percent FFP rate for the following items and services: counseling services and patient education; examination and treatment by medical professionals pursuant to States' requirements; devices to prevent conception; and infertility services, including sterilization reversals. The manual further specifies that an abortion may not be claimed as a family planning service. Pursuant to the provisions of the manual, only items and procedures clearly furnished or provided for family planning purposes may be claimed at the enhanced 90-percent FFP rate.

CMS issued *Financial Management Review Guide Number 20* (the guide) to the State agency via Medicaid State Operations Letter 91-9. The guide states that any procedure provided to a woman known to be pregnant may not be considered a family planning service reimbursable at the enhanced 90-percent FFP rate. The guide allows the State agency to use a variety of coding systems and codes for the pharmaceuticals that the State agency reimburses under Medicaid. Most of the medications covered as family planning services and reimbursable at the 90-percent FFP rate are used for birth control or for the stimulation of ovulation in infertile women. Other medications that are allowable at the 90-percent FFP rate are used incident to, or as part of, procedures performed for family planning purposes, such as pain medications following a sterilization procedure. However, the guide does not specifically list what pharmaceutical codes may be reimbursed at the enhanced 90-percent FFP rate.

The State agency's requirements define family planning services as any medically approved treatment, counseling, drugs, supplies, or devices which are prescribed, or furnished by a provider, to individuals of child-bearing age for purposes of enabling such individuals to freely determine the number and spacing of their children. The State agency's State plan says that family planning services provided by physicians have no limitations; however, services provided in health departments are limited to one initial visit per customer, one annual visit per year, and interim visits as needed.

During State fiscal years 2006 through 2009, the State agency had claims for family planning prescription drugs of \$3,580,597 (\$3,222,537 Federal share).

### **Medicaid Management Information System**

Providers enrolled in the Medicaid program submit claims for payment to the State agency's MMIS, which is maintained by the State agency's fiscal agent. The State agency furnishes to providers an MMIS provider manual that contains instructions for the proper completion and submission of claims. The provider must complete certain fields on the electronic claim form to indicate the type of service provided.

The MMIS uses a variety of indicators on the electronic claim form to identify family planning services that are eligible for reimbursement at the enhanced 90-percent FFP rate. In addition, the State agency's MMIS includes edits and logic to verify that the provider correctly selected the appropriate indicator. If these edits revealed that the provider selected a family planning indicator for services unrelated to family planning services, the claim was returned to the provider for correction and resubmission. If the MMIS logic verified that the provider correctly selected the appropriate indicator, those services were reported to CMS for the appropriate amount of Federal reimbursement.

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

### **Objective**

Our objective was to determine whether the family planning pharmacy claims submitted by providers and claimed by the State agency at the enhanced 90-percent FFP rate from July 1, 2005, through June 30, 2009, were allowable pursuant to Federal requirements.

### **Scope**

We reviewed the \$3,580,597 (\$3,222,537 Federal share) that the State agency claimed for prescription drugs related to family planning services in Kansas from July 1, 2005, through June 30, 2009. We did not review the overall internal control structure of the State agency or the Medicaid program. Rather, we reviewed only the internal controls that pertained directly to our objective.

We performed fieldwork at the State agency's offices in Topeka, Kansas, from July 2009 through February 2010.

### **Methodology**

To accomplish our objective, we:

- reviewed Federal laws, regulations, guidance and the State plan;
- held discussions with CMS officials and acquired an understanding of CMS requirements and guidance furnished to State agency officials concerning Medicaid family planning claims;
- held discussions with State agency officials to ascertain State agency policies, procedures, and guidance for claiming Medicaid reimbursement for family planning services;
- reconciled current period, prior period, and waiver<sup>1</sup> family planning claims reported on the standard Form CMS-64, Quarterly Medicaid Statement of Expenditures for the Medical Assistance Program (CMS-64 report),<sup>2</sup> back to the State agency's supporting documentation;
- selected a simple random sample of 100 prescription drug claims from the Family Planning Program;

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<sup>1</sup> During the audit period the State agency reported family planning expenditures to CMS under waivers for Mental Health and Substance abuse.

<sup>2</sup> The CMS-64 report summarizes actual Medicaid expenditures for each quarter and is used by CMS to reimburse States for the Federal share of Medicaid expenditures.

- obtained and reviewed the supporting documentation for each sampled claim to determine the allowability of the claim; and
- provided the results of our review, to include the medical documents related to the 31 claims not eligible for the 90-percent FFP rate, to State agency officials.

Appendixes A and B contain the details of our sampling and projection methodologies.

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 objective.

## **FINDINGS AND RECOMMENDATIONS**

Not all of the family planning pharmacy claims submitted by providers and claimed by the State agency at the enhanced 90-percent FFP rate from July 1, 2005, through June 30, 2009, were allowable pursuant to Federal requirements. Of the 100 claims in our sample, 69 qualified as family planning services and could be claimed for reimbursement at the enhanced 90-percent FFP rate. However, the remaining 31 claims in our sample totaling \$201 (Federal share) were not allowable for reimbursement at the enhanced 90-percent FFP rate because the services in question could not be claimed as family planning services pursuant to Federal requirements. Specifically, of the 31 remaining claims, the State agency claimed drug costs for:

- 17 services related to beneficiaries who were pregnant,
- 8 services that were unrelated to family planning, and
- 6 services that lacked sufficient supporting documentation.

Based on the results of our sample, we estimated that the State agency received \$151,526 in unallowable Federal reimbursement. These errors occurred because the MMIS's edits did not always correctly identify claims for reimbursement at the enhanced 90-percent FFP rate.

### **UNALLOWABLE FAMILY PLANNING SERVICES**

#### **Pregnancy**

The guide, part (IV)(E), states that “[b]y definition, any procedure provided to a woman who is known to be pregnant cannot be considered a family planning service reimbursable at 90-percent FFP.”

Contrary to these Federal guidelines, the State agency improperly claimed Federal reimbursement for 17 drug costs submitted by providers that were not allowable for reimbursement at the enhanced 90-percent FFP rate. The State agency claimed drug costs for 17 instances in which physicians prescribed prenatal vitamins to pregnant women. Therefore,

the drug costs related to the 17 claims were not allowable for reimbursement at the Family Planning Program's enhanced 90-percent FFP rate.

### **Services Unrelated to Family Planning**

Section 4270 of the manual defines family planning services as those that prevent or delay pregnancy or otherwise control family size. The manual states that only items and procedures clearly furnished or provided for family planning purposes may be claimed at the enhanced 90-percent FFP rate.

Contrary to these Federal guidelines, the State agency improperly claimed Federal reimbursement for drug costs associated with eight services unrelated to family planning that were not allowable for reimbursement at the enhanced 90-percent FFP rate. The documentation contained in the medical files stated that doctors issued prescriptions for hormone or bleeding control and for therapeutic reasons. Therefore, the drug costs related to the eight claims were not allowable for reimbursement at the Family Planning Program's enhanced 90-percent FFP rate.

### **Lack of Documentation**

Section 1902(a)(27) of the Act and 42 CFR §§ 431.17 and 433.32 require that services claimed for Federal Medicaid reimbursement be documented.

Contrary to these Federal requirements, the State agency improperly claimed Federal reimbursement for drug costs for six claims that were not allowable for reimbursement at the enhanced 90-percent FFP rate because the doctors could not provide documentation to support the services billed. Therefore, the drug costs related to the six claims were not allowable for reimbursement at the Family Planning Program's enhanced 90-percent FFP rate.

## **CAUSES OF THE OVERPAYMENTS**

The MMIS's edits did not always correctly identify claims for reimbursement at the enhanced 90-percent FFP rate. To classify family planning claims, the State agency's MMIS has edits and logic to identify prescription drug claims that are based on a list of National Drug Codes (NDC)<sup>3</sup> that are allowable under the Family Planning program. The State agency identified these NDCs because their utilization typically relate to an allowable Family Planning diagnosis. However, the MMIS included prescription drug claims that related to both family planning and non-family planning diagnoses.

## **UNALLOWABLE FAMILY PLANNING CLAIMS**

Our sample found 31 errors totaling \$201 (Federal share) of unallowable Federal reimbursement. Based on the results of our sample, we estimated that the State agency received \$151,526 in unallowable Federal reimbursement.

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<sup>3</sup> Drug products are identified using a unique, three-segment number called the National Drug Code (NDC). The first two segments of this code identify the manufacturer and the drug product.

## **RECOMMENDATIONS**

We recommend that the State agency:

- refund \$151,526 to the Federal Government and
- strengthen internal controls to ensure that MMIS edits appropriately identify claims that are ineligible for reimbursement at the enhanced 90-percent FFP rate.

## **STATE AGENCY COMMENTS**

In written comments to our draft report, the State agency did not directly address our findings and recommendations. The State agency said that it would work with CMS to determine the timing and amount of Medicaid funds that the State agency should refund to the Federal Government.

Regarding our second recommendation, the State agency stated that “[t]he OIG’s [Office of Inspector General] audit methodology identified claims that could not be linked to a family planning diagnosis, but this methodology did not delineate a specific diagnosis for each of those claims.” The State agency also said that we did not verify the specific purpose behind each use of contraceptives or provide a feasible method to distinguish the diagnosis for each use of contraceptive medications. Referring to these and other difficulties in confirming cases in which family planning prescription drugs were used for other purposes, the State agency said that it would “create edits and audits ... for future claims for family planning services when CMS identifies a practical method of distinguishing claims for medicinal contraceptives that are prescribed for other purposes.”

The State agency added that our recommendation “to ensure contraceptives are never submitted for enhanced match, and to ensure this by requiring providers to create a unique and unprecedented process for marking each prescription of contraceptives with the diagnosis, places undue and disproportionate burden on providers, increases administrative costs for the state, and is therefore not feasible.”

The State agency’s written comments also referred to a third recommendation, which does not appear in our final report. The State agency’s comments are included in their entirety as Appendix C.

## **OFFICE OF INSPECTOR GENERAL RESPONSE**

Nothing in the State agency’s comments caused us to change our findings and recommendations. The State agency focused its comments on a discussion of the problems related to the proper use of contraceptive drugs, but that issue related to only 8 of the 31 unallowable claims in our sample. The State agency did not address either our findings regarding beneficiaries who were pregnant, which accounted for 55 percent of the errors in our statistical sample, or our findings regarding the lack of sufficient supporting documentation, which accounted for 26 percent of the errors.

With respect to the State agency's statement that we did not provide a feasible method to distinguish the diagnosis for each use of contraceptive medications, it is the State agency's responsibility to administer the Family Planning Program in accordance with Federal requirements. Accordingly, the State agency should have adequate internal controls to ensure that services unrelated to family planning are not claimed at the enhanced 90-percent family planning FFP rate.

Prescription contraceptive drugs were prescribed for reasons other than family planning and were erroneously claimed by the State agency for Federal reimbursement under the enhanced 90-percent family planning FFP rate. As stated in our Methodology, we provided the State agency with the claims that we had identified as unrelated to family planning, as well as the medical records associated with these claims. We also provided the State agency with the specific diagnosis for each incorrect claim and the purpose behind the prescribed drug involved in that claim. Because these claims were not related to family planning, the State agency should refund the enhanced Federal reimbursement to the Federal Government.

# **APPENDIXES**

## **APPENDIX A: SAMPLE DESIGN AND METHODOLOGY**

### **POPULATION**

The population consists of all paid prescription drug claims for which the State agency received reimbursement at the enhanced 90-percent Federal financial participation (FFP) rate for services furnished to Medicaid beneficiaries claimed during the period July 1, 2005, through June 30, 2009.

### **SAMPLING FRAME**

We obtained a database of paid claims for the Family Planning Program that were submitted by the Medicaid providers of the State of Kansas, for the period July 1, 2005, through June 30, 2009. The database contains 211,496 claim lines totaling \$19,993,630. The Medicaid claim lines were extracted from the paid claims' database maintained by the State agency's fiscal agent.

We extracted 133,810 prescription drug claim lines and created a separate database. The prescription drug claim lines were reduced by 430 zero-paid claim lines and 21,574 voided claim lines, leaving 111,806 prescription drug claim lines, which we converted to 111,799 prescription drug claims. The total Medicaid reimbursement for the 111,799 paid claims was \$3,580,597, of which the Federal share was \$3,222,537.

The Medicaid prescription drug claims were extracted by our advanced audit techniques staff from the State agency's Medicaid claim files provided to us by the State agency's fiscal agent from the Medicaid Management Information System.

### **SAMPLE UNIT**

Sampling unit was a paid prescription drug claim for Medicaid Family Planning services.

### **SAMPLE DESIGN**

We used a simple random sample.

### **SAMPLE SIZE**

One hundred sample units (claims) were selected for review.

## **SOURCE OF THE RANDOM NUMBERS**

We generated the random numbers with the Office of Inspector General, Office of Audit Services, statistical software (RAT-STATS).

## **ESTIMATION METHODOLOGY**

We used RAT-STATS to estimate the unallowable payments for Medicaid Family Planning services.

## APPENDIX B: SAMPLE RESULTS AND ESTIMATES

### Sample Details and Results

Claims in Frame	Value of Frame (Federal Share)	Sample Size	Value of Sample (Federal Share)	Unallowable Claims	Value of Unallowable Claims (Federal Share)
111,799	\$3,222,537	100	\$3,027	31	\$201

### Estimates

(Limits Calculated for a 90 Percent Confidence Interval)

**Point Estimate:** \$224,184  
**Lower Limit:** **\$151,526**  
**Upper Limit:** \$296,842

**APPENDIX C: STATE AGENCY COMMENTS**



May 13, 2010

Patrick Cogley  
Regional Inspector General  
601 East 12<sup>th</sup> Street  
Room 0429  
Kansas City, Missouri 64106

Re: Revised response.

Dear Mr. Cogley:

The Kansas Health Policy Authority (KHPA) has received the draft report entitled Review of Family Planning Pharmacy Claims Submitted by Selected Providers under the State of Kansas Medicaid Program.

This is in the revised response to the Office of Inspector General (OIG) audit Report Number A-07-10-04157 finding #1.

**KHPA Comments on OIG Recommendations**

1. We recommend that the State agency:
  - Refund \$151,526 to the federal Government,
  - Strengthen internal controls to ensure the MMIS edits appropriately identify claims that are ineligible for reimbursement at the enhanced 90 – percent FFP rate, and
  - Instruct providers to submit family planning claims separately and to mark the family planning indicator only for family planning services.

**KHPA Response:**

*KHPA will work with CMS to determine the timing and the amount of Medicaid funds KHPA should refund to the Federal government. The OIG's audit methodology identified claims that could not be linked to a family planning diagnosis, but this methodology did not delineate a specific diagnosis for each of those claims. In working with CMS to identify an appropriate amount to refund, we will ask that CMS confirm each case in which contraceptives were used for other purposes. Such confirmation may prove difficult, if not impossible, illustrating KHPA's*

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[www.khpa.ks.gov](http://www.khpa.ks.gov)

Medicaid and HealthWave:  
Phone: 785-296-3981  
Fax: 785-296-4813

State Employee Health Plan:  
Phone: 785-368-6361  
Fax: 785-368-7180

State Self Insurance Fund:  
Phone: 785-296-2364  
Fax: 785-296-6995

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*dilemma in implementing the OIG's other recommendations. KHPA will create edits and audits as recommended by OIG for future claims for family planning services when CMS identifies a practical method of distinguishing claims for medicinal contraceptives that are prescribed for other purposes.*

*Longstanding Federal policy encourages liberal coverage of family planning services through an enhanced match rate. Prescription contraceptives are the prevailing method of birth control and family planning. The OIG's audit has confirmed that prescription contraceptive drugs can be used for other purposes by identifying such claims among those submitted by Kansas Medicaid for the enhanced federal match of 90%. However, the OIG has not identified a feasible method for Kansas Medicaid to distinguish the diagnosed purpose for each use of contraceptive medications. Indeed, the OIG's audit of family planning claims in Kansas did not verify the specific purpose behind each use of contraceptives. In many cases, claims for contraceptive medicines identified for disallowance were those where a contraceptive purpose could not be confirmed.*

*The OIG's recommendation to ensure that contraceptives are never submitted for enhanced match, and to ensure this by requiring providers to create a unique and unprecedented process for marking each prescription of contraceptives with the diagnosis, places undue and disproportionate burden on providers, increases administrative costs for the state, and is therefore not feasible. Ensuring that enhanced match is claimed only for medications used for family planning would require submission of the diagnosis code on every medication potentially used for family planning. Collection of the diagnosis is not a function of the pharmacy provider and would impose a significant increase in workload in both claims processing and contacting the prescribing physician to verify the diagnosis for which it was prescribed. KHPA's queries to other states found none that require a diagnosis as part of a pharmaceutical claim. The recommendation is out of step with the practice of medicine and threatens the single most important component of family planning services: access to contraceptive medications. As a result, the recommendations are inconsistent with Federal policy encouraging appropriate, but unhindered, access to family planning services for Medicaid recipients.*

*We do not dispute the ambiguous or alternative purposes behind the use of some contraceptives, but question whether Congress intended Medicaid programs to police these intentions. We recommend that the HHS OIG suspend investigations of State Medicaid programs in this specific area and instead work with CMS policy staff to ensure consistency between HHS policy and OIG audit criteria. For example, HHS program staff may determine that accuracy in state claims for enhanced matching payments for Medicaid family planning services is of sufficient importance to merit changes in the practice of medicine, such as:*

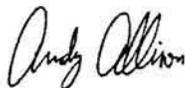
- the inclusion of a diagnosis on all prescriptions;*
- use a separate prescription pad designed specifically for the purpose of capturing a diagnosis or including a checkmark that indicates use of a contraceptive for either contraception or other purposes; or*
- Mandatory queries of women with Medicaid coverage at the prescription counter to confirm the specific intent.*

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*Assignment of the family planning indicator is an internal KHPA function. Appropriate assignment of the family planning indicator to ensure correct claiming of the enhanced match is being addressed by policies to correct those internal processes. KHPA will also continue to work and offer training to providers. If additional provider education is necessary to ensure accurate reporting, KHPA will issue provider bulletins and instructions on the use of the family planning indicator.*

KHPA appreciates the efforts of the OIG staff in conducting this audit and being willing to discuss issues during the audit process. Thank you for the opportunity to respond to this draft audit report.

Sincerely,

A handwritten signature in cursive script that reads "Andy Allison".

Andrew Allison, PhD  
Executive Director