



October 6, 2011

Report Number: A-07-10-04168

Andrew Allison, Ph.D.
Division Director
Division of Health Care Finance
Room 900-N Landon State Office Building
Topeka, KS 66612

Dear Dr. Allison:

Enclosed is the U.S. Department of Health and Human Services (HHS), Office of Inspector General (OIG), final report entitled *Review of Kansas Medicaid Payments for the School District Administrative Claiming Program during the Period April 1, 2006, Through March 31, 2009*. We will forward a copy of this report to the HHS action official noted on the following page for review and any action deemed necessary.

The HHS action official will make final determination as to actions taken on all matters reported. We request that you respond to this official within 30 days from the date of this letter. Your response should present any comments or additional information that you believe may have a bearing on the final determination.

Section 8L of the Inspector General Act, 5 U.S.C. App., requires that OIG post its publicly available reports on the OIG Web site. Accordingly, this report will be posted at <http://oig.hhs.gov>.

If you have any questions or comments about this report, please do not hesitate to call me at (816) 426-3591, or contact Debra Keasling, Audit Manager, at (816) 426-3213 or through email at Debra.Keasling@oig.hhs.gov. Please refer to report number A-07-10-04168 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 and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**REVIEW OF KANSAS MEDICAID
PAYMENTS FOR THE SCHOOL DISTRICT
ADMINISTRATIVE CLAIMING PROGRAM
DURING THE PERIOD APRIL 1, 2006,
THROUGH MARCH 31, 2009**



Daniel R. Levinson
Inspector General

October 2011
A-07-10-04168

Office of Inspector General

<http://oig.hhs.gov>

The mission of the Office of Inspector General (OIG), as mandated by Public Law 95-452, as amended, is to protect the integrity of the Department of Health and Human Services (HHS) programs, as well as the health and welfare of beneficiaries served by those programs. This statutory mission is carried out through a nationwide network of audits, investigations, and inspections conducted by the following operating components:

Office of Audit Services

The Office of Audit Services (OAS) provides auditing services for HHS, either by conducting audits with its own audit resources or by overseeing audit work done by others. Audits examine the performance of HHS programs and/or its grantees and contractors in carrying out their respective responsibilities and are intended to provide independent assessments of HHS programs and operations. These assessments help reduce waste, abuse, and mismanagement and promote economy and efficiency throughout HHS.

Office of Evaluation and Inspections

The Office of Evaluation and Inspections (OEI) conducts national evaluations to provide HHS, Congress, and the public with timely, useful, and reliable information on significant issues. These evaluations focus on preventing fraud, waste, or abuse and promoting economy, efficiency, and effectiveness of departmental programs. To promote impact, OEI reports also present practical recommendations for improving program operations.

Office of Investigations

The Office of Investigations (OI) conducts criminal, civil, and administrative investigations of fraud and misconduct related to HHS programs, operations, and beneficiaries. With investigators working in all 50 States and the District of Columbia, OI utilizes its resources by actively coordinating with the Department of Justice and other Federal, State, and local law enforcement authorities. The investigative efforts of OI often lead to criminal convictions, administrative sanctions, and/or civil monetary penalties.

Office of Counsel to the Inspector General

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 for OIG's internal operations. OCIG represents OIG in all civil and administrative fraud and abuse cases involving HHS programs, including False Claims Act, program exclusion, and civil monetary penalty cases. In connection with these cases, OCIG also negotiates and monitors corporate integrity agreements. OCIG renders advisory opinions, issues compliance program guidance, publishes fraud alerts, and provides other guidance to the health care industry concerning the anti-kickback statute and other OIG enforcement authorities.

Notices

THIS REPORT IS AVAILABLE TO THE PUBLIC
at <http://oig.hhs.gov>

Section 8L of the Inspector General Act, 5 U.S.C. App., requires that OIG post its publicly available reports on the OIG Web site.

OFFICE OF AUDIT SERVICES FINDINGS AND OPINIONS

The designation of financial or management practices as questionable, a recommendation for the disallowance of costs incurred or claimed, and any other conclusions and recommendations in this report represent the findings and opinions of OAS. Authorized officials of the HHS operating divisions will make final determination on these matters.

EXECUTIVE SUMMARY

BACKGROUND

Medicaid Program and Health-Related Services to Children

Congress amended section 1903(c) of the Social Security Act in 1988 to allow Medicaid coverage of health-related services provided to children under the Individuals with Disabilities Education Act. The school-based health program permits children to receive health-related services, generally without having to leave school. States may be reimbursed for the administrative activities that directly support identifying and enrolling potentially eligible children in Medicaid. The Federal reimbursement is 50 percent of allowable administrative expenses.

To ascertain the portion of time and activities that is related to the administration of the Medicaid program, States must develop an allocation methodology that is approved by both the Centers for Medicare & Medicaid Services (CMS) and the U.S. Department of Health and Human Services. Random moment sampling, which makes use of random moment time studies (RMTS), is an approved allocation methodology and must reflect all of the time and activities performed by employees participating in the Medicaid administrative claiming program. For the RMTS, participants record their activities at a designated point in time. These RMTS procedures were performed by all participating school districts to determine, for each quarter, a statewide percentage of time spent on allowable Medicaid reimbursable administrative activities.

Kansas Medicaid Program

The Division of Health Care Finance (State agency) administers the Medicaid program in Kansas, including the School District Administrative Claiming (SDAC) program, in accordance with a CMS-approved State plan. In January 2000, the State agency contracted with Maximus, Inc. (Maximus), to manage the SDAC program. In December 2005, the State agency awarded the SDAC contract to Public Consulting Group, Inc. (PCG), to manage the SDAC program. (For this report, we will refer to both Maximus and PCG as “the Contractor.”)

On a quarterly basis, the participating school districts in Kansas submitted to the Contractor a list of all school district employees participating in the SDAC program (SDAC participants). The Contractor consolidated these personnel listings and statistically selected SDAC participants from a statewide pool to include in the RMTS. Effective April 2006, the Contractor used a Web-based RMTS system to assign, distribute, and submit the statistically selected date and time (the random moment) to the selected SDAC participants. Each of the selected SDAC participants then responded to a series of questions identifying and explaining the activity he or she was performing at the selected random moment. The Contractor then coded the random moment according to the responses provided.

Using the results of the RMTS, the Contractor determined, and reported to the State agency, the statewide percentages of time spent on allocable Medicaid administrative activities. For each quarter, the Contractor applied the applicable statewide percentage to Personnel Costs and Other

Costs associated with the provision of school-based health services. In addition to the statewide percentage, the calculation to determine the Federal reimbursements related to the administrative activities performed by individual school districts also applied each participating school district's:

- Medicaid eligibility rate (MER) (which allocated costs between Medicaid- and non-Medicaid-eligible students) and
- indirect cost rate to the Personnel Costs and Other Costs.

The State agency claimed \$24,556,303 (\$12,278,151 Federal share) for administrative costs associated with school-based health services provided by 198 participating school districts for the period April 1, 2006, through March 31, 2009. Of this, the Olathe school district claimed \$1,405,078 (\$702,539 Federal share), the Wichita school district claimed \$1,314,664 (\$657,332 Federal share), and the Topeka school district claimed \$1,313,230 (\$656,615 Federal share); we focused on these three school districts. However, because the State agency used a Web-based RMTS system and because any errors associated with the RMTS allocation methodology would therefore affect all of the participating Kansas school districts, we reviewed Web-based RMTS responses for all participating Kansas school districts.

OBJECTIVE

Our objective was to determine whether the administrative costs that the State agency claimed for school-based health services during the period April 1, 2006, through March 31, 2009, were reasonable, allowable, and adequately supported pursuant to applicable Federal and State requirements.

SUMMARY OF FINDINGS

Not all of the administrative costs that the State agency claimed for school-based health services during the period April 1, 2006, through March 31, 2009, were reasonable, allowable, and adequately supported pursuant to applicable Federal regulations and the State plan. Specifically, of the \$2,016,486 (Federal share) that the State agency claimed in administrative costs for the Wichita, Topeka, and Olathe school districts for this period, \$100,565 (Federal share) was unallowable for Federal reimbursement. An additional \$21,032 (Federal share) in administrative costs related to incorrectly calculated materials and supplies costs, claimed for the Topeka school district, may not have been allowable for Federal reimbursement.

In addition, two errors identified during our review of the audited (Wichita, Topeka, and Olathe) school districts impacted not only these school districts, but also all other participating Kansas school districts. As a result of these errors, the three audited school districts and all other participating Kansas school districts received a total of \$1,972,961 (Federal share) in unallowable Medicaid payments for the period April 1, 2006, through March 31, 2009.

Specifically:

- Errors in the RMTS allocation methodology affected the calculation of the statewide RMTS percentages. As a result, participating Kansas school districts received \$1,706,760 (\$129,691 for the Wichita school district, \$97,023 for the Topeka school district, \$91,454 for the Olathe school district, and \$1,388,592 for all other participating school districts) in unallowable Federal reimbursement.
- For one quarter, the State agency relied on incorrect MERs, which affected the calculation of administrative costs for all participating Kansas school districts. As a result, participating Kansas school districts received \$266,201 (\$17,931 for the Topeka school district, \$9,528 for the Olathe school district, and \$238,742 for all other participating school districts) in unallowable Federal reimbursement.

These errors occurred because the State agency did not have adequate policies and procedures to monitor the SDAC program and to ensure that all costs claimed met Federal requirements.

RECOMMENDATIONS

We recommend that the State agency:

- refund \$2,073,526 (\$178,314 for the Wichita school district, \$161,348 for the Topeka school district, \$106,530 for the Olathe school district, and \$1,627,334 for all other participating school districts) to the Federal Government for unallowable SDAC expenditures;
- work with CMS to determine what portion of the \$21,032 (for the Topeka school district) associated with the incorrectly calculated materials and supplies costs was allowable; and
- strengthen policies and procedures to ensure that SDAC expenditures submitted for Federal reimbursement are accurate and reasonable by:
 - reviewing RMTS responses, Personnel Costs, and Other Costs with the supporting documentation for a sample of school districts each quarter to ensure that the administrative costs are properly claimed and documentation complies with CMS guidance and
 - performing trend analysis on every participating school district each quarter to identify potential problems with the claims that the school districts submit to the State agency.

STATE AGENCY COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE

In written comments on our draft report, the State agency disagreed with the audit period as stated in our report and with our findings and recommendations. The State agency said that "... the most substantive concerns raised by the OIG [Office of Inspector General] are definitional in nature and have mainly to do with differing interpretation of federal requirements."

The State agency's comments are presented in the Appendix. We excluded three attachments because of their volume. We will forward all of the attachments in their entirety to CMS.

After reviewing the State agency's comments, we maintain that our findings and recommendations remain valid.

TABLE OF CONTENTS

	<u>Page</u>
INTRODUCTION	1
BACKGROUND	1
Medicaid Program and Health-Related Services to Children	1
Kansas Medicaid Program	2
OBJECTIVE, SCOPE AND METHODOLOGY	3
Objective	3
Scope	3
Methodology	4
FINDINGS AND RECOMMENDATIONS	5
INACCURATE INVOICES FOR THREE AUDITED SCHOOL DISTRICTS	6
Claimed Costs That Should Have Been Offset by Other Federal Revenue Sources But Were Not	7
Inaccurate Personnel Costs	7
Inaccurate Other Costs: Materials and Supplies	8
INACCURATE INVOICES FOR THREE AUDITED AND ALL OTHER PARTICIPATING SCHOOL DISTRICTS	9
Inaccurate Random Moment Time Study Responses	9
Inaccurate Medicaid Eligibility Rate	11
MEDICAID ADMINISTRATIVE CLAIMING NOT ADEQUATELY MONITORED	11
EFFECT OF UNALLOWABLE CLAIMS PAID	11
RECOMMENDATIONS	12
STATE AGENCY COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE	13
Audit Period	13
Inaccurate Invoices for Three Audited School Districts	14
Inaccurate Random Moment Time Study Responses	14
Inaccurate Medicaid Eligibility Rate	15
Policies and Procedures	16

APPENDIX

STATE AGENCY COMMENTS

INTRODUCTION

BACKGROUND

Medicaid Program and Health-Related Services to Children

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.

Congress amended section 1903(c) of the Act in 1988 to allow Medicaid coverage of health-related services provided to children under the Individuals with Disabilities Education Act. The school-based health program permits children to receive health-related services, generally without having to leave school. The Act provides for States to be reimbursed for the administrative activities that directly support identifying and enrolling potentially eligible children in Medicaid. Administrative functions include outreach, eligibility intake, information and referral, health service coordination and monitoring, and interagency coordination. The Federal reimbursement is 50 percent of allowable administrative expenses.

To ascertain the portion of time and activities that is related to the administration of the Medicaid program, States must develop an allocation methodology that is approved by both CMS and the U.S. Department of Health and Human Services, Division of Cost Allocation. Random moment sampling, which makes use of random moment time studies (RMTS), is an approved allocation methodology and must reflect all of the time and activities (whether allocable or allowable under Medicaid) performed by employees participating in the Medicaid administrative claiming program. For the RMTS, participants record their activities at a designated point in time. In Kansas, it was used to identify, measure, and allocate the school staff's time that was devoted to Medicaid reimbursable administrative activities. These RMTS procedures were performed by all participating school districts to determine, for each quarter, a statewide percentage of time spent on allowable Medicaid reimbursable activities.

According to Office of Management and Budget (OMB) Circular A-87, *Cost Principles for State, Local, and Indian Tribal Governments*, random moment sampling is a federally accepted method for tracking employees working in dynamic situations (that is, performing many different types of activities on a variety of programs over a short period of time). The CMS *Medicaid School-Based Administrative Claiming Guide* (CMS guide), dated May 2003, acknowledges that OMB Circular A-87 lists random moment sampling as one acceptable method for allocating salaries to Federal awards when employees work on multiple activities or cost objectives.

Kansas Medicaid Program

The Division of Health Care Finance (State agency) administers the Medicaid program in Kansas, including the School District Administrative Claiming (SDAC) program. In January 2000, the State agency contracted with Maximus, Inc. (Maximus), to manage the SDAC program. In December 2005, the State agency awarded the SDAC contract to Public Consulting Group, Inc. (PCG), to manage the SDAC program. PCG assumed partial management of the SDAC program from Maximus beginning in February 2006, and full management of the program beginning on March 1, 2006. (For this report, we will refer to both Maximus and PCG as “the Contractor.”)

On a quarterly basis, the participating school districts submitted to the Contractor a list of all school district employees participating in the SDAC program (SDAC participants). The Contractor consolidated these personnel listings and statistically selected SDAC participants from a statewide pool to include in the RMTS. Effective April 2006, the Contractor used a Web-based RMTS system to assign, distribute, and submit the statistically selected date and time (the random moment) to the selected SDAC participants. Each of the selected SDAC participants then responded to a series of questions identifying and explaining the activity he or she was performing at the selected random moment. After the selected SDAC participants completed and submitted their responses, the Contractor coded the moment according to the responses provided.

Using the results of the RMTS, the Contractor determined, and reported to the State agency, the statewide percentages of time spent on allocable Medicaid administrative activities.¹ For each quarter, the Contractor applied the applicable statewide percentage to Personnel Costs and Other Costs associated with the provision of school-based health services. In addition to the statewide percentage, the calculation to determine the Federal reimbursements related to the administrative activities performed by individual school districts also applied each participating school district’s:

- Medicaid eligibility rate (MER)² and
- indirect cost rate³ to the Personnel Costs and Other Costs.

The State agency claimed \$24,556,303 (\$12,278,151 Federal share) for administrative costs associated with school-based health services provided by 198 participating school districts for the period April 1, 2006, through March 31, 2009. Of this, the Olathe school district claimed

¹ The Contractor’s calculations yielded a number of percentages because each Medicaid administrative activity had its own percentage. While these percentages varied from one quarter to the next, the percentage for a particular Medicaid administrative activity in a particular quarter did not change from one school district to the next.

² The MER is used to allocate costs between Medicaid- and non-Medicaid-eligible students. The allocation of costs involves calculating the ratio of the total number of Medicaid-eligible students to the total number of students in each school district.

³ The Kansas State Department of Education is the cognizant agency that provides the approved indirect cost rate for each school district to the State agency.

\$1,405,078 (\$702,539 Federal share), the Wichita school district claimed \$1,314,664 (\$657,332 Federal share), and the Topeka school district claimed \$1,313,230 (\$656,615 Federal share); we focused on these three school districts. However, because the State agency used a Web-based RMTS system and because any errors associated with the RMTS allocation methodology would therefore affect all of the participating Kansas school districts, we reviewed Web-based RMTS responses for all participating Kansas school districts.

OBJECTIVE, SCOPE AND METHODOLOGY

Objective

Our objective was to determine whether the administrative costs that the State agency claimed for school-based health services during the period April 1, 2006, through March 31, 2009, were reasonable, allowable, and adequately supported pursuant to applicable Federal and State requirements.

Scope

During our audit period, the State agency claimed \$24,556,303 (\$12,278,151 Federal share) for administrative costs associated with school-based health services provided by 198 participating school districts in Kansas. We performed an indepth review of the school district administrative claims filed on behalf of the Wichita, Topeka, and Olathe school districts. We selected these three school districts based on the amounts that the State agency claimed on their behalf for administrative activities during the period April 1, 2006, through March 31, 2009.⁴ The State agency claimed \$4,032,972 (\$2,016,486 Federal share) for administrative costs associated with these three school districts, out of the \$24,556,303 (\$12,278,151 Federal share) that the State agency claimed for administrative costs associated with school-based health services provided by all 198 participating Kansas school districts for the period April 1, 2006, through March 31, 2009.

We did not perform a detailed review of the State agency's internal controls because our objective did not require us to do so. We limited our internal control review to obtaining an understanding of the State agency's policies and procedures used to claim SDAC expenditures.

We did not perform a detailed review of Personnel Costs and Other Costs at the remaining 195 participating school districts in Kansas. However, because the State agency used statewide RMTS percentages to calculate administrative costs for all Kansas school districts, we reviewed RMTS responses from all of the participating school districts. Any errors in the RMTS statewide percentages affected the administrative costs of every participating school district. Therefore, we

⁴ We reviewed costs that the State agency claimed on standard form CMS-64, Quarterly Medicaid Statement of Expenditures for the Medical Assistance Program (CMS-64 report) dated June 30, 2006, through March 31, 2009. Because CMS allows State Medicaid agencies up to 2 years to claim costs, not all costs reviewed were actually incurred during the period April 1, 2006, through March 31, 2009.

applied the revised statewide RMTS percentages to the costs for all 198 participating school districts statewide.⁵

In general, we do not express an opinion on the total and Federal share amounts claimed on the CMS-64 reports for the other 195 participating Kansas school districts for the purpose of performing calculations in this audit. We are not expressing an opinion on costs except, as discussed below, for the effect of the revised RMTS percentages on their administrative costs and for the revised MER for the quarter ending June 2007.

We conducted fieldwork at the State agency in Topeka, Kansas, and the three school districts.

Methodology

To accomplish our objective, we:

- reviewed applicable Federal and State requirements;
- reviewed the State agency's policies and procedures concerning administrative activities, which included the State agency's monitoring and oversight procedures;
- interviewed State agency employees to understand how they administered the Medicaid program statewide;
- reconciled the State agency's quarterly CMS-64 reports to the SDAC invoices submitted by the Contractor on behalf of all participating Kansas school districts and to the State agency's accounting records;
- reconciled the SDAC invoices for the Wichita, Topeka, and Olathe school districts to the accounting records;
- interviewed PCG employees⁶ to understand how they administered the SDAC program and how the statewide RMTS percentages were calculated;
- reviewed Wichita, Topeka, and Olathe school districts' SDAC invoices reimbursed for the period April 1, 2006, through March 31, 2009;
- compared Wichita, Topeka, and Olathe school districts' SDAC program Personnel Costs to payroll records to identify any Personnel Costs that were paid by other Federal programs;

⁵ The Contractor calculated the percentages of time that school districts' staffs spent on allowable administrative activities by analyzing the statewide RMTS responses. The Contractor used the percentages of time spent on allowable administrative activities to calculate each participating school district's SDAC quarterly claim. An error in the RMTS for one or more school districts would thus affect all participating school districts within the State.

⁶ Because PCG had assumed full responsibility for managing the State's SDAC program by the time we conducted our fieldwork, we did not interview Maximus employees.

- compared costs in the Other Costs category, the indirect cost rates, and the MERs reported on the SDAC invoices to supporting documentation;
- reviewed 9,068 RMTS responses completed by employees of all 198 participating school districts to determine whether activities performed were Medicaid administrative activities;
- recalculated the Wichita, Topeka, and Olathe school districts' administrative claims using the corrected expenditures, corrected MERs, and the corrected statewide RMTS percentages to determine the amounts that should have been claimed;
- recalculated the other participating Kansas school districts' administrative claims using the audited MERs and the audited statewide RMTS percentages to determine the amounts that should have been claimed;
- used the State agency's formulas for calculating administrative costs and determined the effect by comparing the original claiming invoices to the total of audited costs and RMTS samples; and
- shared the results of this review, including the details of our recommended adjustments, with State agency officials on October 21, 2010.

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 administrative costs that the State agency claimed for school-based health services during the period April 1, 2006, through March 31, 2009, were reasonable, allowable, and adequately supported pursuant to applicable Federal regulations and the State plan. Specifically, of the \$2,016,486 (Federal share) that the State agency claimed in administrative costs for the Wichita, Topeka, and Olathe school districts for this period, \$100,565 (Federal share) was unallowable for Federal reimbursement. An additional \$21,032 (Federal share) in administrative costs related to incorrectly calculated materials and supplies costs, claimed for the Topeka school district, may not have been allowable for Federal reimbursement.

In addition, two errors identified during our review of the audited (Wichita, Topeka, and Olathe) school districts impacted not only these school districts, but also all other participating Kansas school districts. As a result of these errors, the three audited school districts and all other participating Kansas school districts received a total of \$1,972,961 (Federal share) in unallowable Medicaid payments for the period April 1, 2006, through March 31, 2009.

Specifically:

- Errors in the RMTS allocation methodology affected the calculation of the statewide RMTS percentages. As a result, participating Kansas school districts received \$1,706,760 (\$129,691 for the Wichita school district, \$97,023 for the Topeka school district, \$91,454 for the Olathe school district, and \$1,388,592 for all other participating school districts) in unallowable Federal reimbursement.
- For one quarter, the State agency relied on incorrect MERs, which affected the calculation of administrative costs for all participating Kansas school districts. As a result, participating Kansas school districts received \$266,201 (\$17,931 for the Topeka school district, \$9,528 for the Olathe school district, and \$238,742 for all other participating school districts) in unallowable Federal reimbursement.

These errors occurred because the State agency did not have adequate policies and procedures to monitor the SDAC program and to ensure that all costs claimed met Federal requirements.

INACCURATE INVOICES FOR THREE AUDITED SCHOOL DISTRICTS

Of the \$2,016,486 (Federal share) in administrative costs claimed for the Wichita, Topeka, and Olathe school districts for the period April 1, 2006, through March 31, 2009, \$100,565 was unallowable for Federal reimbursement. Specifically, for the Wichita, Topeka, and Olathe school districts, the State agency: (1) claimed costs that should have been offset by other Federal revenue sources but were not; (2) claimed inaccurate Personnel Costs; and (3) claimed incorrect Other Costs. (See Table.) In addition, we are setting aside, for CMS adjudication, \$21,032 (Federal share) because the Topeka school district incorrectly calculated and claimed the Other Costs associated with materials and supplies.

Table: Wichita, Topeka, and Olathe School Districts' Questioned Costs

Condition	Wichita Questioned Costs	Topeka Questioned Costs	Olathe Questioned Costs	Total Questioned Costs
Claimed costs that should have been offset by other Federal revenue sources but were not	\$48,623	\$18,755	\$3,387	\$70,765
Inaccurate Personnel Costs				
Claimed costs that should have been net of applicable credits but were not	0	0	1,580	1,580
Unsupported Expenditures	0	0	581	581
Incorrect Other Costs: materials and supplies	0	27,639	0	27,639
Total	\$48,623	\$46,394	\$5,548	\$100,565

Claimed Costs That Should Have Been Offset by Other Federal Revenue Sources But Were Not

OMB Circular A-87, Attachment A, part (C)(1)(j), states that costs must “[b]e adequately documented.” OMB Circular A-87, Attachment A, part (C)(3)(c), states in part that “[a]ny cost allocable to a particular Federal award or cost objective under the principles provided for in this Circular may not be charged to other Federal awards to overcome fund deficiencies, to avoid restrictions imposed by law or terms of the Federal awards, or for other reasons.”

According to the CMS guide, section V(C), “[c]ertain revenues must offset allocation costs in order to reduce the total amount of costs in which the federal government will participate.... The following include some of the revenue offset categories which must be applied in developing the net costs: All federal funds. All state expenditures which have been previously matched by the federal government....”

These Federal requirements specify that school districts are not to include in their claims any expenditure that may have been reimbursed through another Federal program. For example, the school districts should not claim the same expenditures for reimbursement through both the SDAC and the Reserve Officers’ Training Corps (ROTC) programs. Instead, the school districts should allocate the expenditures appropriately between the programs.

Through our review of the payroll records, we determined which SDAC participants’ personnel expenditures were partially paid through one or more other Federal programs. The three audited school districts (Wichita, Topeka, and Olathe) received unallowable Federal reimbursement totaling \$70,765 in Personnel Costs for employees whose personnel expenditures were partially funded by another Federal program, such as the ROTC program (funded by the Department of Defense). The three school districts should have allocated these Personnel Costs appropriately between the various Federal programs that were funding those costs. Instead, though, and contrary to OMB Circular A-87, Attachment A, part (C)(3)(c), and the CMS guide, section V(C), the three school districts did not offset these claimed costs on the basis of the other Federal revenue sources that had contributed to the funding of those personnel expenditures.

Inaccurate Personnel Costs

OMB Circular A-87, Attachment A, part (C)(1), states that “[t]o be allowable under Federal awards, costs must meet the following general criteria: (i) Be the net of all applicable credits. (j) Be adequately documented.”

The Olathe school district provided inaccurate Personnel Costs, which the Contractor used when calculating the administrative claim. First, the Olathe school district did not reduce Personnel Costs by applicable credits. Second, the Olathe school district could not support all of the personnel expenditures reported to the Contractor. The combined effect of these errors, detailed in the following paragraphs, was that the Olathe school district received a total of \$2,161 in unallowable Federal reimbursement for inaccurate personnel costs.

Costs Claimed Not Net of Applicable Credits

Contrary to OMB Circular A-87, Attachment A, part (C)(1)(i), which states that costs must “[b]e the net of all applicable credits,” the Olathe school district did not adequately reduce Personnel Costs by applicable credits, such as unpaid leave, when claiming costs. Because the Olathe school district did not reduce personnel expenditures by applicable credits, the school district received \$1,580 in unallowable Federal reimbursement.

Unsupported Costs

Contrary to OMB Circular A-87, Attachment A, part (C)(1)(j), which states that costs must “[b]e adequately documented,” the Olathe school district did not adequately document, and thus could not fully support, some of the personnel expenditures claimed, such as salaries of SDAC participants. As a result, for 11 quarters, the Olathe school district received a total of \$581 in unallowable Federal reimbursement.

Inaccurate Other Costs: Materials and Supplies

OMB Circular A-87, Attachment A, part (C)(1)(j), states that costs must “[b]e adequately documented.”

The CMS guide, section V(E), states: “Where indirect costs are allowed, the school district must certify that costs claimed as direct costs do not duplicate those costs reimbursed through the application of the indirect cost rate.”

In addition, the Kansas Medicaid School District Administrative Claiming Guide, dated October 2003, states that if Other Costs cannot be readily attributed to the SDAC participants, “... then these costs will have to be allocated by the salaries and benefits of the total population.”

All costs attributed to SDAC participants can be allocated to the SDAC program, specifically Other Costs, a category which includes materials and supplies. Of the three audited school districts, Topeka was the only school district that claimed Other Costs expenditures during our audit period. The Topeka school district reported the total Other Costs expenditures to the Contractor which, in turn, included the expenditures when calculating the administrative claim.

The Topeka school district did not properly calculate the Other Costs reported to the Contractor and thus overstated expenditures in two respects: (1) the Topeka school district reported duplicate Other Costs in the sense that some of these costs had already been included in the application of the indirect cost rate, and (2) the Topeka school district relied upon an incorrectly reported number of school district employees when allocating the expenditures. The combined effect of these errors, detailed in the following paragraphs, was that the school district received a total of \$27,639 in unallowable Federal reimbursement for Other Costs. In addition, we are setting aside, for CMS adjudication, \$21,032 (Federal share) related to incorrectly calculated materials and supplies costs.

Duplicate Materials and Supplies Costs

The Kansas State Department of Education is the cognizant agency that provides each school district's approved indirect cost rate to the State agency. Each school district's indirect cost rate is calculated for the State fiscal year and includes expenditures associated with materials and supplies, along with other purchased services.

Contrary to the CMS guide, the Topeka school district claimed duplicate costs for Other Costs, in particular materials and supplies, for eleven quarters of our audit period. Specifically, the Topeka school district reported the total Other Costs, which included materials and supplies, to the Contractor even though some of these costs had already been included in the calculation of the indirect cost rate. These expenditures were thus allocated to the SDAC program twice, once through the indirect cost rate and once as an Other Cost. As a result of this error, the Topeka school district received \$27,639 of unallowable Federal reimbursement.

Incorrectly Calculated Materials and Supplies Costs

Contrary to OMB Circular A-87, Attachment A, part (C)(1)(j), and the Kansas Medicaid School District Administrative Claiming Guide, the Topeka school district did not allocate costs using the total population of school district employees. Instead, for nine quarters the Topeka school district relied on inaccurate reports that provided the incorrect number of employees. Because the Other Costs (which included materials and supplies) were not correctly allocated among the total population and because corrected reports were not available as of the time of our fieldwork, we could not determine the allowable Other Costs. Therefore, we are setting aside the \$21,032 of Federal reimbursement, received by the Topeka school district for materials and supplies costs, for CMS adjudication.

INACCURATE INVOICES FOR THREE AUDITED AND ALL OTHER PARTICIPATING SCHOOL DISTRICTS

Inaccurate Random Moment Time Study Responses

OMB Circular A-87, Attachment A, part (C)(1)(j), states that costs must “[b]e adequately documented.”

Additionally, the CMS guide, section V(A), states:

The documentation for administrative activities must clearly demonstrate that the activities/services directly support the administration of the Medicaid program....

The burden of proof and validation of time study sample results remains the responsibility of the states. To meet this requirement, some states currently include space on time study forms for a brief narrative description of the Medicaid activity, function, or task being performed.

Because a statewide RMTS was calculated using responses from all participating Kansas school districts, errors in the RMTS allocation methodology affected the amounts claimed on the SDAC invoices for all participating Kansas school districts. Therefore, we audited all RMTS responses⁷ and determined that the State agency did not monitor the RMTS process to ensure the RMTS responses (a) were properly coded and (b) supported the activities performed.⁸

Of the 9,068 RMTS responses reviewed, 663 RMTS responses were inaccurately coded and were subsequently used in the statewide RMTS calculation. The errors in these inaccurately coded responses generally took one of three forms:

1. Responses were coded to the “General Administration”⁹ activity code when they were in fact part of overhead-related activities and should have been coded to “School Related and Educational Activities,” a non-Medicaid code. For example, one response with the “General Administration” activity code provided a description that said, “Checking in purchase orders and warehouse orders.” This response should not have been coded to a Medicaid-related activity because, according to the CMS guide, section IV(C), “... certain functions, such as payroll, maintaining inventories, developing budgets, executive direction, etc., are considered overhead and, therefore, are only allowable through the application of an approved indirect cost rate.”
2. Responses related to individualized education meetings (IEP)¹⁰ were coded to various incorrect codes, including Medicaid-related codes such as “Referral, Coordination and Monitoring of Medicaid Services.” For example, one response with the “Referral, Coordination and Monitoring of Medicaid Services” activity code provided a description that said, “Participating in an IEP for a special needs student.” According to the CMS guide, section IV(C), “IEP meetings with the parents” are classified as “School Related and Educational Activities.” This category may not be reimbursed through the SDAC program, unlike “Referral, Coordination and Monitoring of Medicaid Services.”
3. Some responses were so vaguely worded that they did not support the activity and were coded to Medicaid-related or reallocated activities. For example, one response with the “General Administration” activity code provided a description that said “Checking my e-mail” because it is “Part of daily routine.” The description vaguely described the participant’s activities rather than specific activities during the selected random moment.

⁷ Before April 2006, Maximus used paper RMTS responses rather than the Web-based RMTS system that PCG implemented after it had assumed full management of the SDAC program. Therefore, for RMTS responses before April 2006, only RMTS responses associated with the Topeka and Olathe school districts were reviewed. The Wichita school district was not participating in the SDAC program during this time.

⁸ If, in our review of the RMTS responses, we found that the coded response indicated a non-Medicaid activity but the corresponding description supported a Medicaid-allowable activity, we changed the classification from a non-Medicaid activity to a Medicaid-allowable activity.

⁹ General Administration activities are reallocated proportionately to all activity codes.

¹⁰ An IEP meeting is used to determine eligibility for special education services.

We reclassified the 663 RMTS coding errors and recalculated the SDAC invoices for the participating school districts accordingly. Because of the RMTS coding errors, Kansas school districts received \$1,706,760 (\$129,691 for the Wichita school district, \$97,023 for the Topeka school district, \$91,454 for the Olathe school district, and \$1,388,592 for all other participating school districts) in unallowable Federal reimbursement.

Inaccurate Medicaid Eligibility Rate

OMB Circular A-87, Attachment A, part (C)(1)(j), states that costs must “[b]e adequately documented.” Part (C)(3)(a) states that “[a] cost is allocable to a particular cost objective if the goods or services involved are chargeable or assignable to such cost objective in accordance with relative benefits received.”

Because school-based health services are provided to both Medicaid- and non-Medicaid-eligible students, the Contractor calculated the MER for each school district on a quarterly basis. The MER was then applied to the total costs (Personnel Costs and Other Costs) claimed to determine the actual administrative claim amount.

For the quarter ending June 2007, the Contractor calculated the MERs for all participating Kansas school districts using incorrect data from the State agency’s information system. Because of this error, participating school districts received \$266,201 (\$17,931 for the Topeka school district, \$9,528 for the Olathe school district, and \$238,742 for all other participating school districts)¹¹ in unallowable Federal reimbursement.

MEDICAID ADMINISTRATIVE CLAIMING NOT ADEQUATELY MONITORED

The State agency did not have adequate policies and procedures to monitor the SDAC program and to ensure that all costs claimed met Federal requirements. In particular, the State agency had not updated its procedures when PCG assumed responsibility for managing the SDAC program from Maximus. In addition, State agency officials were not able to provide documentation that any oversight or review of the work performed by the school districts or the Contractor had been performed.

EFFECT OF UNALLOWABLE CLAIMS PAID

Because the State agency did not correctly calculate and claim only allowable administrative costs for the SDAC program, it received \$2,073,526 (Federal share) in unallowable Federal reimbursement.

The three school districts we reviewed received \$100,565 (Federal share) for unallowable costs. We recalculated the SDAC invoices using the revised RMTS percentages, Personnel Costs, and Other Costs. The Wichita school district was reimbursed \$48,623 (Federal share), the Topeka

¹¹ The Wichita school district was not participating in the SDAC program in June 2007 and was therefore not affected by this error.

school district was reimbursed \$46,394 (Federal share), and the Olathe school district was reimbursed \$5,548 (Federal share) for unallowable costs. An additional \$21,032 (Federal share) in administrative costs claimed for the Topeka school district may not have been allowable for Federal reimbursement.

In addition, two errors identified during our review of the audited (Wichita, Topeka, and Olathe) school districts impacted not only these school districts, but also all other participating Kansas school districts. As a result of these errors, the three audited school districts and all other participating Kansas school districts received a total of \$1,972,961 (Federal share) in unallowable Medicaid payments for the period April 1, 2006, through March 31, 2009. Specifically:

- Errors in the RMTS allocation methodology affected the calculation of the statewide RMTS percentages. As a result, participating Kansas school districts received \$1,706,760 (\$129,691 for the Wichita school district, \$97,023 for the Topeka school district, \$91,454 for the Olathe school district, and \$1,388,592 for all other participating school districts) in unallowable Federal reimbursement.
- For one quarter, the State agency relied on incorrect MERs, which affected the calculation of administrative costs for all participating Kansas school districts. As a result, participating Kansas school districts received \$266,201 (\$17,931 for the Topeka school district, \$9,528 for the Olathe school district, and \$238,742 for all other participating school districts) in unallowable Federal reimbursement.

RECOMMENDATIONS

We recommend that the State agency:

- refund \$2,073,526 (\$178,314 for the Wichita school district, \$161,348 for the Topeka school district, \$106,530 for the Olathe school district, and \$1,627,334 for all other participating school districts) to the Federal Government for unallowable SDAC expenditures;
- work with CMS to determine what portion of the \$21,032 (for the Topeka school district) associated with the incorrectly calculated materials and supplies costs was allowable; and
- strengthen policies and procedures to ensure that SDAC expenditures submitted for Federal reimbursement are accurate and reasonable by:
 - reviewing RMTS responses, Personnel Costs, and Other Costs with the supporting documentation for a sample of school districts each quarter to ensure that the administrative costs are properly claimed and documentation complies with CMS guidance and

- performing trend analysis on every participating school district each quarter to identify potential problems with the claims that the school districts submit to the State agency.

STATE AGENCY COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE

In written comments on our draft report, the State agency disagreed with the audit period as stated in our report and with our findings and recommendations. A summary of the State agency's points of disagreement—which dealt principally with the RMTS and the finding associated with the MER—and our response follows.

The State agency's comments are presented in the Appendix. We excluded three attachments because of their volume. We will forward all of the attachments in their entirety to CMS.

Audit Period

State Agency Comments

The State agency said that it had noted a discrepancy in our identification of the audit period. The State agency cited a preliminary report dated October 19, 2010, which indicated an audit period of the quarters beginning on April 1, 2005, and ending on September 30, 2008. The State agency contrasted this timeframe with the stated audit period in this report (April 1, 2006, through March 31, 2009) and said that because the State agency "... did not provide data for quarters starting with October 1, 2008 – March 31, 2009, we are creating our response [i.e., the comments on our draft report] with the understanding that the draft report dates are incorrect and the original report periods beginning April 1, 2006 and ending September 30, 2008 were the periods for this review."

Office of Inspector General Response

The audit notification letter sent to the State agency in June 2009 (prior to our fieldwork) specified an audit period of June 30, 2005, through March 31, 2009. While performing our review we requested data for the audit period which included the quarters beginning October 1, 2008, and running through March 31, 2009, and the State agency provided this data to us. During our fieldwork, we changed our audit period to the period June 30, 2006, through March 31, 2009. We notified both State agency and school district officials of the modification. As explained in footnote 4 of this report, because CMS allows State Medicaid agencies up to 2 years to claim costs, not all costs reviewed were actually incurred during the stated audit period. Our intention to review costs claimed through March 31, 2009, did not change at any point in our audit and was consistently communicated to the State agency.

Inaccurate Invoices for Three Audited School Districts

State Agency Comments

The State agency commented on our first finding (the \$100,565 in questioned costs for the Wichita, Topeka, and Olathe school districts, and the \$21,032 for costs that the State agency claimed for the Topeka school district that we are setting aside for CMS adjudication). For the \$100,565 in questioned costs, the State agency said, “[w]e agree that federal costs should be excluded, and that supporting documentation from the district must match costs included in the claims.” For the \$21,032 in costs that we are setting aside, the State agency said that it believes that these costs are allowable.

Office of Inspector General Response

Nothing in the State agency’s comments caused us to change our findings or recommendations regarding these costs. The State agency agreed with our finding regarding the \$100,565 in questioned costs, and provided no additional information or support for its contention that the \$21,032 in set-aside costs should be allowable. Therefore, we maintain that our findings and recommendations regarding these costs remain valid.

Inaccurate Random Moment Time Study Responses

State Agency Comments

The State agency disagreed with our finding regarding the inaccurately coded RMTS responses (the \$1,706,760 in questioned costs). For RMTS responses that were coded to the “General Administration” activity code, the State agency said that it believed that we had misinterpreted the CMS guide, and added that “... 384 of 520 moments in this category were coded and documented correctly. **These moments meet the description of the General Administration code as defined in the 2003 CMS administrative claiming guide**” (emphasis in original). For the other 33 moments in this category, the State agency said that these moments were also coded correctly but added that supporting documentation was not available. The State agency also stated that these activities, “general” in nature, are allocated between school-related and Medicaid-related, as required by the CMS guide for non-specific activities.

For responses related to IEP meetings, the State agency disagreed “... with the OIG’s [Office of Inspector General] conclusion that all activities that occur in an IEP meeting are educational.... The assertion that the entire IEP meeting is a non-medical event is not consistent with the practice within schools in Kansas and throughout the country.” The State agency provided additional information on health-related services that are covered by Medicaid under the school-based health program. The State agency added, “In the meeting with OIG Auditors on August 3, 2011, it was indicated that many of the examples were rejected, not based on the activity, but because of the person [i.e., duty position] performing the activity,” and stated that CMS did not restrict allowable Medicaid-related activities to certain job categories.

Office of Inspector General Response

For responses that were coded to the “General Administration” activity code, the CMS guide, section IV(C), is clear in stating that these activities, such as those related to payroll, inventories, budget, and similar activities conventionally regarded as overhead, are allowable only through the application of an approved indirect cost rate. Because the approved indirect cost rate is used to calculate the Federal reimbursements related to the administrative activities, such activities should not be coded to a Medicaid reimbursable activity code. The State agency may have misinterpreted the CMS guide, and/or the rules for development of an indirect cost rate, in framing its comments on this finding. Accordingly, we maintain that our finding and related recommendation regarding the “General Administration” activity code remain valid.

Nowhere in our report do we contend that all activities that occur in an IEP meeting are educational. During the August 3, 2011, meeting to which the State agency referred, we explained that in evaluating each of the IEP RMTS responses, we took into account both the stated activity and the SDAC participant’s duty position before determining whether that response could allowably be coded to a Medicaid-related code. For example, if the RMTS response mentioned that the SDAC participant was discussing a health-related issue in an IEP meeting and if that SDAC participant was a medical professional, we classified the RMTS moment as a Medicaid-related activity. If, on the other hand, the RMTS response mentioned that the SDAC participant was in an IEP meeting but did not mention health services, we classified the RMTS response as non-Medicaid-related pursuant to the provisions of the CMS guide, section IV(C), as cited in our report. Accordingly, we maintain that our finding and related recommendation regarding the IEP RMTS responses remain valid.

Inaccurate Medicaid Eligibility Rate

State Agency Comments

The State agency asked that we remove this finding (and the \$266,201 in associated questioned costs) in its entirety from our final report. The State agency said that it had identified, before the initiation of our audit, a discrepancy in its calculation of the MERs for the quarter ending June 2007, and added that it had “... already submitted amended claims to rectify the issue and the financial adjustments have already been made by CMS....”

Office of Inspector General Response

The State agency informed us, after our fieldwork and before issuance of our draft report, that it had identified the discrepancy regarding the calculation of the MERs, and it provided some documentation supporting that the correction had been made, but did not provide supporting documentation that the discrepancy was identified before our audit fieldwork started. We requested documentation supporting the State agency’s assertion that it had already identified this discrepancy. The State agency did not provide any supporting documentation to this effect.

We began our fieldwork in July 2009. On August 5, 2009, we notified the State agency and the Contractor of the error involving the inaccurate MER. The State agency made the adjustment for

this error by reducing the administrative costs it claimed on its CMS-64 report for the quarter ending March 2010. In light of the span of time that passed between our notification and the State agency's reduction in administrative costs claimed, we are reporting this error as a finding. Moreover, because the State agency adjusted its claimed costs in this way rather than by following the proper procedures for a prior period adjustment, CMS was unable to confirm to us that the appropriate financial adjustment had in fact been made.

Further, the State agency did not make any refund of the \$31,967 owed to the Federal Government for the overstated claimed costs for six of the participating school districts for the quarter ending June 2007. The adjustments for these six school districts for the quarter ending June 2009 (the quarter when the State agency adjusted the administrative invoices) was not made because these school districts did not file an administrative claim for that quarter or were not participating in the SDAC program in that quarter.

We continue to recommend that the \$266,201 be included in the refund of unallowable costs to the Federal Government.

Policies and Procedures

State Agency Comments

The State agency disagreed with our stated causes for the findings we have identified, and stated that it has a structured program in place to communicate with school districts and the Contractor, provide regular training, and submit claims in accordance with Federal guidelines. The State agency said that "... the most substantive concerns raised by the OIG are definitional in nature and have mainly to do with differing interpretation of federal requirements."

Office of Inspector General Response

We have communicated extensively with the State agency before, during, and after our fieldwork for this audit, and we recognize the efforts being undertaken to improve its school-based health program and to administer it in accordance with Federal requirements and guidelines. At the same time, though, our continued belief as to the validity of our findings and recommendations also affirms our belief that certain aspects of the State agency's policies and procedures for the monitoring of the SDAC program can be strengthened. Our final recommendation provides a more detailed course of action as to how, in our judgment, the State agency can best address the causes of the findings we have identified.

APPENDIX

APPENDIX: STATE AGENCY COMMENTS



Landon State Office Building
900 SW Jackson Street, Room 900-N
Topeka, KS 66612

Department of Health
and Environment
Division of Health Care Finance

Phone: 785-296-3981
Fax: 785-296-4813
www.kdheks.gov/hcf/

Robert Moser, MD, Secretary
Andrew Allison, PhD, Director

Sam Brownback, Governor

August 23, 2011

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

RE: OIG Draft Report Number A-07-10-04168

Dear Mr. Cogley:

The Division of Health Care Finance (DHCF) appreciates the opportunity to provide this response to the May 2011 draft audit report by the U.S. Department of Health and Human Services, Office of the Inspector General (OIG). We would like to thank the OIG audit team for its professionalism throughout our review of its initial findings and recommendations.

We have noted a discrepancy in OIG's identification of the audited period. The preliminary report provided by Auditor RFDACTFD dated October 19, 2010 indicated that the focus of reimbursement was for quarters beginning April 1, 2005 and ending September 30, 2008; however, the draft report dated May 2011 indicates that the review was for the periods April 1, 2006 through March 31, 2009. Since we did not provide data for quarters starting with October 1, 2008 – March 31, 2009, we are creating our response with the understanding that the draft report dates are incorrect and the original report periods beginning April 1, 2006 and ending September 30, 2008 were the periods for this review.

Based on its findings, the OIG recommended that: **"The State refund \$2,073,526 (\$178,314 for the Wichita school district, \$161,348 for the Topeka school district, \$106,530 for the Olathe school district, and \$1,627,334 for all other participating school districts) to the Federal Government for unallowable SDAC expenditures."**

We do not agree with this recommendation. We have carefully reviewed each of the OIG's findings. Based on our review, we believe the refund requested is significantly overstated.

Cogley
August 23, 2011
Page 2

OIG Findings Related to Time Study Results:

Of the total recommended refund of \$2,073,526, OIG indicates that \$1,706,760 (82%) relates to time study coding anomalies. The OIG outlined disagreement with 663 (7.3%) of the 9,068 moments reviewed. The DHCF disagrees with this finding, and believes that OIG is misreading the results and/or misinterpreting federal rules and regulations regarding allowable activities and costs.

OIG Finding:

“Responses related to individualized education meetings (IEP) were coded to various incorrect codes, including Medicaid-related codes such as “Referral, Coordination, and Monitoring of Medicaid Services.” For example, one response with the “Referral, Coordination and Monitoring of Medicaid Services” activity code provided a description that said, “Participating in an IEP for a special needs student.” According to the CMS guide, Section IV(C), “IEP meetings with the parents” are classified as “School Related and Educational Activities.” This category may not be reimbursed through the SDAC program, unlike “Referral, Coordination and Monitoring of Medicaid Services.”

DHCF Response:

We disagree with the OIG’s conclusion that all activities that occur in an IEP meeting are educational and request that the finding be eliminated. The IEP meeting is primarily an administrative function and is largely the premise for the SDAC program. In the school setting, the medical plan of care for students with disabilities is established through the IEP development process in accordance with the Individuals with Disabilities Education Act (IDEA). Under IDEA, IEP development generally occurs during IEP meetings that address the identification of a student’s educational and health care needs. IDEA requires each student’s IEP to be reviewed at least annually to update the student’s needs and plan of care. Our coding is consistent with the 2003 CMS administrative claiming guide Section IV(C), KHPA’s Code 9B (Referral Planning and Coordination of Medical Services).

The IEP meeting is the manner in which a student’s need for health related services that are covered by Medicaid are developed, reviewed, modified, and coordinated. The initial and annual IEP meeting is a time intensive process in which professionals within the school district, both medical professionals and non-medical professionals, discuss the services needed and determine the best level, time, and location of the services to meet the needs of the student. The assertion that the entire IEP meeting is a non-medical event is not consistent with the practice within schools in Kansas and throughout the country. We have also outlined our comments on these activities in the attached spreadsheet.

The portion of the IEP meeting in which staff are arranging for Medicaid covered services, gathering information for the establishment of the plan of care for medical services, or participating in the portion of the meeting to coordinate or review a student’s need for health-related services are coded to the Care Planning and Coordination Code. The moments flagged by OIG as inaccurately coded include activities in which the need for Speech Therapy, Physical Therapy, Occupational Therapy, Nursing Services or Social Work or Psychological services were being discussed. These are all services that are covered by Medicaid under the School Based Service program and we believe these have been incorrectly identified by the OIG as non-reimbursable activities.

Cogley
August 23, 2011
Page 3

Services in this category as identified in the planning guide:

- Arranging for any Medicaid covered medical/mental health diagnostic or treatment services that may be required as the result of a specifically identified medical/mental health condition based on the findings other than when provided as a direct service.
- Gathering any information that may be required in advance of these referrals.
- Participating in a meeting/discussion to coordinate or review a student's needs for health-related services covered by Medicaid.
- Providing follow-up contact to ensure that a child has received the prescribed medical/mental health services covered by Medicaid.
- Coordinating the completion of the prescribed services, termination of services, and the referral of the child to other Medicaid service providers as may be required to provide continuity of care.
- Providing information to other staff on the child's related medical/mental health services and plans.
- Coordinating the delivery of community-based medical/mental health services for a child with special/severe health care needs.
- Providing information about Medicaid EPSDT screening (e.g., dental and vision) in the schools to help identify medical conditions that can be corrected or improved by services through Medicaid.
- Coordinating medical/mental health services provision with providers, as appropriate.

Specific examples of moments rejected by the Auditors:

OIG Sample Moment:

Job Title: Social Worker

Who was with you? "School staff, family of a student and the student."

What were you doing? "Part of the IEP team. Reviewing evaluation reports and determining eligibility for special education services."

OIG Sample Moment:

Job Title: Speech Therapist

Who was with you? "Mother and father of a student, student, principal, ECD teacher, psychologist."

Cogley
August 23, 2011
Page 4

What were you doing? “Participating in an initial IEP staffing. We were sharing testing results and formulating and IEP for a student who has qualified for our ECD program.”

These activities may occur during the IEP meeting and are clearly related to planning for Medicaid covered services. The OIG interpretation that IEP meeting should always be 100% coded to the Educational code is incorrect. The DHCF does not code all activities surrounding the IEP meeting to the Care Planning and Coordination Code. For example, the scheduling of the meeting, general IEP paperwork and time spent in the IEP meeting discussing the *academic or non-health related* needs of the child are (already) coded to the Educational (non-reimbursable) Code.

In the meeting with the OIG Auditors on August 3, 2011, it was indicated that many of the examples were rejected, not based on the activity, but because of the person performing the activity. The Division of Health Care Finance has re-reviewed both the approved Kansas SDAC Guide and the CMS 2003 Guide. There is no direction in either guide indicating that the Referral, Care Planning, and Coordination of Medicaid Services can only be utilized, or performed, by certain job categories. Below is an example moment rejected for this reason.

OIG Sample Moment:

Job Title: Administrator

Who was with you? “Student/ Student's parent/ District SPED staff.”

What were you doing? “Attending an IEP transition meeting with parents and school service providers to develop and discuss delivery of service for special education, specifically speech and language.”

OIG Sample Moment:

Job Title: Administrator

Who was with you? “I was talking with the IR teacher and the school psy.”

What were you doing? “We were discussing the behavior plan of a student in the classroom and an upcoming IEP meeting. We were discussing the student's need for the Area Mental Health intervention with the family involved.”

These sample moments clearly indicate Planning and Coordination for Medicaid services. The Administrator’s time should be included as it clearly involves planning for the provision of Medicaid services.

OIG Finding:

“Responses were coded to the “General Administration” activity code when they were in fact part of overhead-related activities and should have been coded to “School Related and Educational Activities,” a non-Medicaid code.

Cogley
August 23, 2011
Page 5

DHCF Response:

We disagree with this finding and believe the OIG has misinterpreted the CMS guide; consequently, the finding should be eliminated. We contend that 384 of 520 moments in this category were coded and documented correctly. **These moments meet the description of the General Administration code as defined in the 2003 CMS administrative claiming guide.** We have provided detailed responses to each of the moments in questions in the attached spreadsheet. Example activities are listed below. The coded moments for these activities, which are general in nature, meet the definition quoted above from the CMS Guide. For the remaining 33 moments in this category, we believe they were coded correctly, but noted that additional supporting documentation is not available. Because these activities are general in nature, they are ultimately allocated between school related and Medicaid related. The guide specifically requires this treatment for general administrative activities. The description of "Reallocated Activities" per the guide:

"Reallocated Activities:

- *Refers to those general administrative activities performed by time study participants which must be reallocated across the other claimable and non-claimable activity codes on a pro rata basis. These reallocated activities are reported under Code 10, General Administration. An example of the pro rata distribution of Code 10, General Administration is contained in Appendix 2, Chapter 6."*

In the preliminary report, the OIG indicated that these activities were not reimbursable because they were included in the calculation of the Non-restricted Indirect Cost rate. The non-restricted indirect cost rate is calculated based on costs, *not on specific activities*. The rate is determined by using specific function codes in the accounting system divided by the total costs for the school district. **The function codes that are utilized in the calculation of the unrestricted indirect cost rate are expressly excluded from the allowable costs that are reported for any staff in the quarterly expenditure process.** Since the costs are not included in the calculation of the claim, the idea that a specific activity is included in the calculation of the rate is not accurate. The rate is cost based and not activity based and there is no overlap.

Per the guide, the General Administration Activity code is defined as "Time study participants when performing activities that are not directly assignable to program activities should use this code. Include related paperwork, clerical activities, or staff travel required to perform these activities." Examples include:

- Reviewing school procedures and rules.
- Attending or facilitating school or unit staff meetings, training or board meetings.
- Performing administrative or clerical activities related to general building or school functions or operations.
- Providing general supervision of staff, including supervision of student teachers or classroom volunteers and evaluation of employee performance.
- Reviewing technical literature and research articles.

Cogley
August 23, 2011
Page 6

- Other general administrative activities of a similar nature as listed above, which cannot be specifically identified under other activity codes.”

Note that the classification of these “general” activities means that they ultimately are allocated between both school related and Medicaid related. Because the activities are non-specific, the guide requires the allocation. There are many activities that staff performs in the school setting that are administrative or clerical activities that are related to general building or school functions and operations. These activities are also activities that can be specifically identified under other activity codes as well. Many of these were rejected by the Auditors and documented as “vague” when they are general building or district administrative functions and were classified as such. Here are some specific example moments that we believe should not have been rejected.

Sample Moment:

Job Title: Administrator

Who was with you? “By myself.”

What were you doing? “Returning emails. Had been in a meeting all morning and was catching up on the emails.”

Sample Moment:

Job Title: Support Staff

Who was with you? “By myself”

What were you doing? “Checking timecards for two employees that I supervise. I am responsible for making sure the timecards are correct according to the days that the two employees work (I keep a record of when they are off work) then I submit to the payroll department for processing.”

Sample Moment:

Job Title: Support Staff

Who was with you? “Office Staff”

What were you doing? “Assembling final appraisal documents for upcoming teacher meeting with principal; answering teacher's questions re: petty cash procedures and purchasing needs and reviewing remaining budget dollars. Responding to the needs at the time in my role as support/administrative staff.”

The agency correctly coded these activities to the “General Administration” code described in the guide. Audit reclassification to school-related is arbitrary and lacks justification. There is a process for allocating the general activities that are neither directly identifiable as school or Medicaid related. This allocation process takes care of the split of the general administrative costs between education and Medicaid related.

Cogley
August 23, 2011
Page 7

OIG Findings related to Medicaid Eligibility Rate (MER)

DHCF Response:

We respectfully request that this finding of \$266,201 (related only to claims from the April – June 2007 quarter) be removed in its entirety from the OIG report. As we previously explained to the OIG, we had already identified a discrepancy in the way we calculated the MER for this quarter, well before the OIG initiated its audit. We have already submitted amended claims to rectify the issue and the financial adjustments have already been made by CMS; therefore, we do not believe it appropriate for OIG to cite an issue that has previously been corrected by the agency. The error was identified by the agency prior to the audit start date. The agency reimbursed CMS in full in the January - February 2010 time period and the documentation has been provided. As a result, we believe, this finding and the recommended disallowance should be removed from the audit report.

Other OIG Findings:

- 1) Moments where coding was suggested be moved from a Non-Reimbursable Code to another Non-Reimbursable Code. **(46 Moments)**
 - a. While we do not agree with all of the recommended coding changes in this category, we will accept the recommendation since all of these recommended changes have no effect on the FFP received. We believe that a number of these activity codes, since they are non-reimbursable, could be combined into a single code since none of the activities are reimbursable and the data is not utilized for other analysis.
- 2) Moments where coding was suggested be moved from one Reimbursable Code that is reduced by the Medicaid Eligibility Rate (MER) to another Reimbursable Code that is reduced by the Medicaid Eligibility Rate (MER). **(2 Moments)**
 - a. While we do not agree with all of the recommended coding changes in this category, we will accept the recommendation of the OIG since all of these recommended changes have no effect on FFP. We believe that a number of these activity codes, since they are reimbursable codes in which the MER is applied in the calculation of the claim, could be combined into a single code they would not impact the calculation of the allowable FFP and the data is not utilized for other analysis.
- 3) Moments where coding was suggested be moved move from a Non-Reimbursable Code, or the General Administration Code to a Reimbursable Code. **(10 Moments)**
 - a. While we do not agree with all of the recommended coding changes in this category, we will accept the recommendation of the OIG.
- 4) Moments where coding was suggested be moved from the General Administration Code to a Non-Reimbursable Code **(520 Moments)**.
 - a. This issue is addressed above in regards to the OIG finding surrounding the General Administration Code.

Cogley
August 23, 2011
Page 8

- 5) Moments where coding was suggested be moved from a Reimbursable Code that is reduced by the Medicaid Eligibility Rate (MER) to a Non-Reimbursable Code. **(82 Moments)**
- a. This issue is covered above in regards to the OIG finding surrounding the coding of Individual Education Plan (IEP) Meetings.

OIG Findings Related to Unallowable Costs:

The remaining OIG findings of \$100,565 relate to costs questioned by OIG. As we understand it, the finding relates to whether the costs were federally funded, possible errors in district reporting of costs, and materials and supplies. We agree that federal costs should be excluded, and that supporting documentation from the district must match costs included in the claims.

We also look forward to discussing the costs related to materials/supplies in Topeka for \$21,032. We believe these costs are allowable.

OIG Finding Related to Oversight:

We strongly disagree with the OIG statement that we did not have adequate policies and procedures to monitor the program. We have a structured program in place to communicate with school districts and our vendor, provide regular training, and submit compliant claims consistent with OMB Circular A-87 and the 2003 CMS Claiming Guide. As the findings of this audit demonstrates, the most substantive concerns raised by the OIG are definitional in nature and have mainly to do with differing interpretation of federal requirements.

Conclusion:

We reiterate our commitment to compliance and share the OIG goals of fully accurate and supportable claims. Out of this process we hope that CMS payment policy can be affirmed and clarified as needed, and after our assistance in that effort. As explained above, we disagree with most of the findings related to time study coding and believe the proposed payback amount is overstated. We have included two Excel files in addition to this letter. One addresses the rejected electronic moments and the other the paper moments rejected. We have explained in the "State Comment" column why we disagree with noted findings.

Sincerely,



Dr. Andrew Allison
Division Director
Division of Health Care Finance

cc: Mr. James Scott, Associate Regional Administrator