



May 23, 2011

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

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

SUBJECT: Review of Additional Claims for Sterilization Procedures in the
Colorado Medicaid Family Planning Program (A-07-11-01096)

Attached, for your information, is an advance copy of our final report on additional claims for sterilization procedures in the Colorado Medicaid family planning program. We will issue this report to the Colorado Department of Health Care Policy and Financing within 5 business days.

If you have any questions or comments about this report, please do not hesitate to contact me at (410) 786-7104 or through email at George.Reeb@oig.hhs.gov, or your staff may contact Patrick J. Cogley, Regional Inspector General for Audit Services, Region VII, at (816) 426-3591 or through email at Patrick.Cogley@oig.hhs.gov. Please refer to report number A-07-11-01096.

Attachment



Region VII
601 East 12th Street
Room 0429
Kansas City, Missouri 64106

May 25, 2011

Report Number: A-07-11-01096

Ms. Susan E. Birch
Executive Director
Colorado Department of Health Care Policy and Financing
1570 Grant Street
Denver, CO 80203

Dear Ms. Birch:

Enclosed is the U.S. Department of Health & Human Services (HHS), Office of Inspector General (OIG), final report entitled *Review of Additional Claims for Sterilization Procedures in the Colorado Medicaid Family Planning 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 Chris Bresette, Audit Manager, at (816) 426-3591 or through email at Chris.Bresette@oig.hhs.gov. Please refer to report number A-07-11-01096 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 ADDITIONAL CLAIMS
FOR STERILIZATION PROCEDURES
IN THE COLORADO MEDICAID
FAMILY PLANNING PROGRAM**



Daniel R. Levinson
Inspector General

May 2011
A-07-11-01096

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 & Human Services (HHS) programs, as well as the health and welfare of beneficiaries served by those programs. This statutory mission is carried out through a nationwide network of audits, investigations, and inspections conducted by the following operating components:

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THIS REPORT IS AVAILABLE TO THE PUBLIC
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Section 8L of the Inspector General Act, 5 U.S.C. App., requires that OIG post its publicly available reports on the OIG Web site.

OFFICE OF AUDIT SERVICES FINDINGS AND OPINIONS

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

EXECUTIVE SUMMARY

BACKGROUND

Pursuant to Title XIX of the Social Security Act (the 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 Colorado, the Department of Health Care Policy and Financing (the State agency) is responsible for administering the Medicaid program.

Consistent with this responsibility, the State agency submits to CMS, on a quarterly basis, its standard Form CMS-64, Quarterly Medicaid Statement of Expenditures for the Medical Assistance Program (CMS-64 report), to report Medicaid expenditures for Federal reimbursement.

The amount that the Federal Government reimburses to State Medicaid agencies, known as Federal financial participation (FFP) or Federal share, is determined by the Federal medical assistance percentage (FMAP), which varies based on a State's relative per capita income. The State agency's FMAP rates ranged from 50.00 percent to 61.59 percent for claims paid from October 1, 2005, through September 30, 2009.

Federal requirements also allow various specified services to be reimbursed at higher FFP rates. 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 rate (90-percent rate) for family planning services. Section 4270 of the CMS *State Medicaid Manual* describes family planning services as those that prevent or delay pregnancy or otherwise control family size and may also include sterilization procedures.

During Federal fiscal years 2006 through 2009, the State agency incurred costs of \$9,697,454 for sterilization procedures, which served as its basis for calculating and claiming Federal reimbursement.

OBJECTIVE

Our objective was to determine whether the State agency correctly claimed costs for Medicaid family planning sterilization procedures on the CMS-64 reports for the period October 1, 2005, through September 30, 2009.

SUMMARY OF FINDINGS

The State agency did not always correctly claim costs for Medicaid family planning sterilization procedures on the CMS-64 reports. For the quarters ended March 2007 through September 2009, the State agency claimed additional costs for the same sterilization procedures, which resulted in \$1,975,800 in unallowable Federal reimbursement.

Although the State agency had an informal adjustment process to claim these costs correctly, this process was not effective beginning with the quarter ended March 2007.

RECOMMENDATIONS

We recommend that the State agency:

- refund \$1,975,800 to the Federal Government,
- review costs for family planning sterilization procedures for quarterly reporting periods subsequent to our audit period and refund any overpayments to the Federal Government, and
- establish written procedures to ensure that future costs for family planning sterilization procedures are claimed correctly on the CMS-64 reports.

STATE AGENCY COMMENTS

In written comments on our draft report, the State agency concurred with our recommendations and described corrective actions that it planned to implement. The State agency's comments are included in their entirety as Appendix B.

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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.

The standard Form CMS-64, Quarterly Medicaid Statement of Expenditures for the Medical Assistance Program (CMS-64 report), reports actual Medicaid expenditures for each quarter and is used by CMS to reimburse States for the Federal share of Medicaid expenditures. The amounts reported on the CMS-64 report and its attachments must be actual expenditures with supporting documentation.

Colorado Medicaid Program

In Colorado, the Department of Health Care Policy and Financing (the State agency) is responsible for administering the Medicaid program. The State agency contracts with Affiliated Computer Services, Inc., to maintain its Medicaid Management Information System (MMIS), a computerized payment and information reporting system that processes and pays Medicaid claims.

The amount that the Federal Government reimburses to State Medicaid agencies, known as Federal financial participation (FFP) or Federal share, is determined by the Federal medical assistance percentage (FMAP), which varies based on a State's relative per capita income. The State agency's FMAP rates ranged from 50.00 percent to 61.59 percent for claims paid from October 1, 2005, through September 30, 2009.

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 Federal reimbursement at an enhanced 90-percent rate (90-percent rate) for family planning services.

Section 4270 of the CMS *State Medicaid Manual* (the manual) describes family planning services as those that prevent or delay pregnancy or otherwise control family size. Family planning services include, but are not limited to, the following items and services: counseling services and patient education, examination and treatment by medical professionals pursuant to

States' requirements, devices to prevent conception, sterilization procedures, and infertility services.

Family Planning Sterilization Claims Processing Methodology

The State agency used computer programs to identify family planning claims according to diagnosis and procedure codes. The programs accessed the MMIS, which contains records of paid claims, and produced reports that listed claims, or portions of claims, with family planning services. The State agency used these reports for claiming family planning costs for Federal reimbursement on the CMS-64 reports.

The CMS-64 report has one line designated for reporting incurred costs for sterilization procedures. Because the State agency initially classified these costs to other CMS-64 report lines, the State agency used an informal adjustment process through which it moved the sterilization costs to the designated line prior to submission of the CMS-64 reports. This process involved a negative adjustment to the other CMS-64 report lines that had initially been used and a positive adjustment to the designated line. Both of these adjustments should have been made at the 90-percent rate.

During Federal fiscal years 2006 through 2009, the State agency incurred costs of \$9,697,454 for sterilization procedures, which served as its basis for calculating and claiming Federal reimbursement. During this same period, the State agency received Federal reimbursement totaling \$34,761,214 for all family planning services. We are separately reviewing this Federal reimbursement.

OBJECTIVE, SCOPE, AND METHODOLOGY

Objective

Our objective was to determine whether the State agency correctly claimed costs for Medicaid family planning sterilization procedures on the CMS-64 reports for the period October 1, 2005, through September 30, 2009.

Scope

We reviewed \$9,697,454 that the State agency incurred for sterilization procedures for the period October 1, 2005, through September 30, 2009. We reviewed the FFP rates used to calculate the Federal reimbursement that the State agency received from its claimed costs, but we did not review the medical necessity of the claims or analyze the claims to determine whether they met the requirements to be claimed as family planning services. Further, 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 Denver, Colorado, from March through November 2010.

Methodology

To accomplish our objective, we:

- reviewed Federal laws, regulations, and guidance and the State plan;
- held discussions with CMS officials to gain an understanding of CMS requirements and guidance furnished to State agency officials concerning Medicaid family planning claims;
- held discussions with State agency officials to gain an understanding of how the State agency claimed Medicaid reimbursement for family planning services, including sterilization procedures;
- reconciled current-period and prior-period family planning claims reported on the CMS-64 reports to the State agency's supporting documentation; and
- provided the results of our review to State agency officials on November 16, 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 finding and conclusions based on our audit objective.

FINDING AND RECOMMENDATIONS

The State agency did not always correctly claim costs for Medicaid family planning sterilization procedures on the CMS-64 reports. For the quarters ended March 2007 through September 2009, the State agency claimed additional costs for the same sterilization procedures, which resulted in \$1,975,800 in unallowable Federal reimbursement.

Although the State agency had an informal adjustment process to claim these costs correctly, this process was not effective beginning with the quarter ended March 2007.

FEDERAL REQUIREMENTS

Federal regulations (42 CFR 433.32(a)) require that the State agency “[m]aintain an accounting system and supporting fiscal records to assure that claims for Federal funds [reported on the CMS-64 report] are in accord with applicable Federal requirements”

Pursuant to section 4270 of the manual, only items and procedures clearly furnished or provided for family planning purposes may be claimed at a 90-percent rate. Additionally, section 4270(B)(1) of the manual states that “FFP at the 90 percent rate is available for the cost of a Medicaid sterilization”

INCORRECTLY CLAIMED COSTS FOR MEDICAID FAMILY PLANNING STERILIZATION PROCEDURES

The State agency did not always correctly claim costs for Medicaid family planning sterilization procedures on the CMS-64 reports. For each of the quarters ended March 2007 through September 2009, the State agency made two claims for the same sterilization procedures for Federal reimbursement. The additional claim was not allowable for Federal reimbursement.

The State agency made one claim correctly at the 90-percent rate on the sterilization line.

The State agency inadvertently made an additional claim for the same sterilization procedures. The additional claims occurred when the State agency moved sterilization costs to the designated line and negatively adjusted the initial lines at the FMAP rates (which ranged from 50.00 percent to 61.59 percent) instead of at the 90-percent rate. This error resulted in additional claims (on the initial lines) that represented the difference between the Federal reimbursement at the 90-percent rate and at the lower FMAP rates.

Because the State agency claimed the costs on the sterilization line, the additional claim (on the initial lines) was unallowable for Federal reimbursement.

We verified that during the quarters ended December 2005 through December 2006, the State agency claimed costs for sterilization procedures only once.

INFORMAL ADJUSTMENT PROCESS NOT EFFECTIVE

The additional claims occurred because the State agency utilized an informal adjustment process that was not effective.

Although the State agency had an informal adjustment process that would have prevented the incorrect claims by ensuring that the negative adjustments were correctly made at the 90-percent rate, this process was not effective beginning with the quarter ended March 2007.

UNALLOWABLE FAMILY PLANNING COSTS

Because the State agency's informal adjustment process was not effective, the State agency received \$1,975,800 in unallowable Federal reimbursement, which represented the difference between Federal reimbursement at the 90-percent rate (\$4,985,826) and at the lower FMAP rates (\$3,010,026).

The details of the questioned costs for each quarter are listed in Appendix A.

RECOMMENDATIONS

We recommend that the State agency:

- refund \$1,975,800 to the Federal Government,
- review costs for family planning sterilization procedures for quarterly reporting periods subsequent to our audit period and refund any overpayments to the Federal Government, and
- establish written procedures to ensure that future costs for family planning sterilization procedures are claimed correctly on the CMS-64 reports.

STATE AGENCY COMMENTS

In written comments on our draft report, the State agency concurred with our recommendations and described corrective actions that it planned to implement. The State agency's comments are included in their entirety as Appendix B.

APPENDIXES

APPENDIX A: CALCULATION OF QUESTIONED COSTS BY QUARTER

The State agency received \$1,975,800 in unallowable Federal reimbursement, which represented the difference between Federal reimbursement at the 90-percent rate (\$4,985,826) and at the lower Federal medical assistance percentage rates (\$3,010,026). The following table presents details of the questioned costs by quarter for Medicaid family planning sterilization procedures.

Quarter Ended	Amounts at 90-Percent Rate	Amounts at FMAP¹ Rates	Net Difference Questioned Costs
03/31/2007	\$146,639	(\$81,466)	\$65,173
06/30/2007	463,695	(257,608)	206,087
09/30/2007	378,375	(210,208)	168,167
12/31/2007	488,431	(271,351)	217,080
03/31/2008	472,398	(262,443)	209,955
06/30/2008	296,031	(164,462)	131,569
09/30/2008	637,200	(354,000)	283,200
12/31/2008	411,882	(269,005)	142,877
03/31/2009	571,514	(373,262)	198,252
06/30/2009	798,350	(546,337)	252,013
09/30/2009	321,311	(219,884)	101,427
Total	\$4,985,826	(\$3,010,026)	\$1,975,800

¹ Federal medical assistance percentage.

APPENDIX B: STATE AGENCY COMMENTS



COLORADO DEPARTMENT OF HEALTH CARE POLICY & FINANCING

1570 Grant Street, Denver, CO 80203-1818 • (303) 866-2993 • (303) 866-4411 Fax • (303) 866-3883 TTY
John W. Hickenlooper, Governor • Susan E. Birch MBA, BSN, RN, Executive Director

April 19, 2011

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

Dear Mr. Cogley:

Here is the Department of Health Care Policy and Financing's submission of responses to the draft report entitled Review of Additional Claims for Sterilization Procedures in the Colorado Medicaid Family Planning Program (A-07-11-01096).

If you have any questions or comments, please feel free to contact me at 303-866-2590 or laurie.simon@state.co.us.

Sincerely,

A handwritten signature in black ink that reads "L. Simon".

Laurie A. Simon
Audit Coordinator

/ls

cc: Greg Tanner, Controller

Enclosure

**Department of Health Care Policy and Financing's
Initial Response to the
Department of Health & Human Services
Office of Inspector General
Review of Additional Claims for Sterilization Procedures in the Colorado Medicaid
Family Planning Program
Control Number A-07-11-01096
March 2011**

CMS Recommendation #1:

We recommend that the State Agency:

- **Refund \$1,975,800 to the Federal Government**

The Department of Health Care Policy and Financing's Response to Recommendation #1:

Concur.

The Department agrees to refund the federal financial participation in the amount of \$1,975,800 for unallowable family planning costs and will review costs for family planning sterilization procedures for all quarterly reporting periods subsequent to the October 1, 2005 through September 30, 2009 audit period reviewed for this report. The Department will implement this recommendation by August 31, 2011.

CMS Recommendation #2:

We recommend that the State Agency:

- **Review costs for family planning sterilization procedures for quarterly reporting periods subsequent to our audit period and refund any overpayments to the Federal Government.**

The Department of Health Care Policy and Financing's Response to Recommendation #2:

Concur.

If any overpayments are identified, the Department will work with the Centers for Medicare and Medicaid Services to ensure the overpayments are refunded to the Federal Government. The Department will implement this recommendation by August 31, 2011.

CMS Recommendation #3:

We recommend that the State Agency:

- **Establish written procedures to ensure that future costs for family planning sterilization procedures are claimed correctly on the CMS-64 reports**

The Department of Health Care Policy and Financing's Response to Recommendation #3:

Concur.

The Department will develop written procedures and will ensure they address the manual reclassification of family planning sterilization procedures so that future costs are claimed correctly on the CMS-64 reports. Training on the policies and procedures related to the methodology for calculating and reporting Family Planning expenditures will be provided to all staff who work with the Family Planning program and their supervisors. The Department will implement this recommendation by August 31, 2011.