

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**SOME OF THE STATE-OPERATED
MEDICAID PROGRAM EXPENDITURES
CLAIMED BY MISSOURI DURING
THE PERIOD OCTOBER 1, 2010,
THROUGH JUNE 30, 2012,
WERE UNALLOWABLE**

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June 2015
A-07-14-03197

Office of Inspector General

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EXECUTIVE SUMMARY

Missouri claimed \$361,000 in unallowable expenditures for certain State-operated Medicaid specialized assistance programs during the period October 1, 2010, through June 30, 2012.

WHY WE DID THIS REVIEW

Missouri's Medicaid program includes provisions for several specialized assistance programs that are administered, not by private providers, but rather by various departments of the Missouri State Government. This review focused on three such programs, called "State-operated programs" for this report. The State departments that administer these programs bill their program expenditures to the Missouri Department of Social Services, Missouri HealthNet Division (State agency), which in turn claims those expenditures for Federal reimbursement. In a previous review, we found that the State agency did not always claim Federal reimbursement for Medicaid payments to State-operated facilities in accordance with Federal requirements.

The Social Security Act authorizes payment to the State equal to the Federal Medical Assistance Percentage (FMAP) of the total amount expended during the quarter as medical assistance under a Centers for Medicare & Medicaid Services (CMS)-approved State Medicaid plan. In addition, Federal regulations and CMS guidelines require that the amounts that States report for Medicaid reimbursement represent actual expenditures with supporting documentation. These regulations and guidelines do not permit the use of estimates.

The State agency claims expenditures for the three State-operated programs on line 49 of the standard Form CMS-64, Quarterly Medicaid Statement of Expenditures for the Medical Assistance Program (CMS-64 report). For this report, we refer to the State-operated program expenditures that the State agency reported on line 49 of its CMS-64 reports as "State-operated program expenditures."

The objective of this review was to determine whether, for the State-operated programs that were the subject of this review, the State agency's claims for Federal reimbursement during the period October 1, 2010, through June 30, 2012 (audit period), were properly supported by actual expenditures in accordance with Federal requirements and guidelines.

BACKGROUND

In Missouri, the State agency administers the provision and payment of Medicaid services. These services include the three State-operated programs that were the subject of this review. The names of these programs, and the departments of the Missouri State Government that administer them, are as follows:

- Behavioral Health: Missouri Department of Social Services, Division of Youth Services,
- Child Initiative: Missouri Department of Social Services, Family Support Division, and
- First Steps: Missouri Department of Elementary and Secondary Education.

The departments of the Missouri State Government that administer these State-operated programs bill the State agency for Medicaid claims. The State agency reviews each claim, calculates the Federal share based on the FMAP in effect as of the date of service of that claim, and reimburses that calculated Federal share to the appropriate department. On a quarterly basis, the State agency claims State-operated program expenditures on line 49 (“Other Care Services”) of the CMS-64 report. The amounts reported must represent actual expenditures for which all supporting documentation, in readily reviewable form, has been compiled and which is available at the time the claim is filed. Furthermore, both Federal regulations and CMS guidelines state that Medicaid claims developed on the basis of estimates are not allowable.

The American Recovery and Reinvestment Act of 2009 (Recovery Act), P.L. No. 111-5, enacted February 17, 2009, provided, among other initiatives, fiscal relief to States to protect and maintain State Medicaid programs in a period of economic downturn. For the recession adjustment period (initially October 1, 2008, through December 31, 2010, and extended by subsequent legislation), which partially overlapped with our audit period, the Recovery Act gave States an estimated \$87 billion in additional Medicaid funding based on temporary increases in States’ FMAPs. Specifically, the legislation provided that a State’s increased FMAP during the recession adjustment period would be no less than its 2008 FMAP increased by 6.2 percentage points, and added that a State could receive an increase greater than that based on increases to its average unemployment rate.

During our audit period, the State agency claimed \$167,635,706 (\$109,403,198 Federal share) for State-operated program expenditures.

WHAT WE FOUND

For the State-operated programs that were the subject of this review, most of the State agency’s claims for Federal reimbursement during our audit period were properly supported by actual expenditures in accordance with Federal requirements and guidelines. However, the State agency incorrectly claimed State-operated program expenditures totaling \$361,346 (Federal share) during this period. These incorrectly claimed expenditures were apportioned among the State-operated programs as follows:

- Behavioral Health: \$256,486 (Federal share),
- Child Initiative: \$96,982 (Federal share), and
- First Steps: \$7,878 (Federal share).

The overpayments occurred because of inadequacies in the State agency’s procedures for claiming these expenditures. Specifically, and contrary to Federal regulations and CMS guidelines, the State agency’s procedures permitted it to use estimates when claiming State-operated program expenditures. The \$361,346 (Federal share) exceeded the amount that the State agency determined was allowable for these expenditures.

WHAT WE RECOMMEND

We recommend that the State agency:

- refund \$361,346 to the Federal Government,
- work with CMS to determine, for quarterly reporting periods subsequent to our audit period, the amount of State-operated program expenditures that the State agency claimed on the basis of estimates and refund any overpayments to the Federal Government, and
- strengthen policies and procedures to ensure that it determines and claims State-operated program expenditures in conformance with Federal regulations and guidelines.

STATE AGENCY COMMENTS AND OUR RESPONSE

In written comments on our draft report, the State agency did not directly address our recommendations but disagreed that it was overpaid for its claims for the State-operated program expenditures and that it had used estimates to support its claim.

The State agency disagreed with the way in which we identified the dates of payment for services as a means to develop our findings; disagreed with our statements that it used estimates to support its claimed State-operated program expenditures; and said that CMS was aware of, and had never questioned, the State agency's methodology for claiming these expenditures.

After reviewing the State agency's comments, we maintain that our findings and recommendations remain valid. During our audit period, the State agency claimed State-operated program expenditures totaling \$167,635,706 (\$109,403,198 Federal share); for the same period, the allowable amount as reflected in the claims data totaled \$167,096,881 (\$109,041,852 Federal share). The difference, \$538,825 (\$361,346 Federal share), represented unallowable Federal reimbursement.

We used the dates on which the State agency claimed State-operated program expenditures, as reflected in the CMS-64 reports, to identify the dates of payment for services. We used the correct FMAPs in our calculations, to include (for the appropriate quarters) the temporarily increased FMAPs provided by the Recovery Act for the recession adjustment period. Moreover, nothing in the State agency's comments caused us to change the statements in our finding that the State agency used a reverse calculation to develop the amounts to claim for State-operated program expenditures; that the claimed amounts did not reflect actual recorded expenditures; and that the procedure the State agency followed to claim these expenditures constituted the use of estimates, which is not permitted under Federal Medicaid requirements.

The State agency did not give us any documentation, either during or subsequent to our audit work, to support its statement that CMS was aware of its methodology to claim State-operated program expenditures. Moreover, the fact that CMS had not questioned that methodology is not equivalent to CMS approval of that methodology. Further, the State agency's written comments did not dispute our statement that the State agency did not update its procedures to factor the

increased FMAPs (provided by the Recovery Act) into either its reimbursements to the departments that administered the State-operated programs or its claimed expenditures.

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INTRODUCTION

WHY WE DID THIS REVIEW

Missouri's Medicaid program includes provisions for several specialized assistance programs that are administered, not by private providers, but rather by various departments of the Missouri State Government. This review focused on three such programs, called "State-operated programs" for this report. The State departments that administer these programs bill their program expenditures to the Missouri Department of Social Services, Missouri HealthNet Division (State agency), which in turn claims those expenditures for Federal reimbursement. In a previous review, we found that the State agency did not always claim Federal reimbursement for Medicaid payments to State-operated facilities in accordance with Federal requirements.¹

The Social Security Act (the Act) authorizes payment to the State equal to the Federal Medical Assistance Percentage (FMAP) of the total amount expended during the quarter as medical assistance under a Centers for Medicare & Medicaid Services (CMS)-approved State Medicaid plan. In addition, Federal regulations and CMS guidelines require that the amounts that States report for Medicaid reimbursement represent actual expenditures with supporting documentation. These regulations and guidelines do not permit the use of estimates.

The State agency claims expenditures for the three State-operated programs on line 49 of the standard Form CMS-64, Quarterly Medicaid Statement of Expenditures for the Medical Assistance Program (CMS-64 report). For this report, we refer to the State-operated program expenditures that the State agency reported on line 49 of its CMS-64 reports as "State-operated program expenditures."

OBJECTIVE

Our objective was to determine whether, for the State-operated programs that were the subject of this review, the State agency's claims for Federal reimbursement during the period October 1, 2010, through June 30, 2012 (audit period), were properly supported by actual expenditures in accordance with Federal requirements and guidelines.

BACKGROUND

Medicaid Program

Under Title XIX of 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, 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.

¹ *Missouri Claimed Unallowable Medicaid Payments for Individuals With Intellectual and Developmental Disabilities in Intermediate Care Facilities* (A-07-12-03180), issued June 25, 2013.

The CMS-64 report is the means by which State Medicaid agencies report actual Medicaid expenditures for each quarter; in turn, CMS uses the CMS-64 report to reimburse States for the Federal share of Medicaid expenditures. State Medicaid agencies must submit their CMS-64 reports to CMS within 30 days after the end of each quarter (42 CFR § 430.30(c)). Each quarterly report shows Medicaid expenditures for the quarter being reported and any prior-period adjustments. It also accounts for any overpayments, underpayments, and refunds received by the State agency.

Federal regulations and guidelines state that the amounts reported on the CMS-64 report and its attachments must represent actual expenditures for which all supporting documentation, in readily reviewable form, has been compiled and which is available at the time the claim is filed (42 CFR § 430.30(c) and the CMS *State Medicaid Manual* (the Manual), § 2500.2). Furthermore, both these Federal regulations and the Manual state that Medicaid claims developed on the basis of estimates are not allowable.

Missouri Medicaid Program—State-Operated Programs

In Missouri, the State agency administers the provision and payment of Medicaid services. The State agency uses the Medicaid Management Information System (MMIS), a computerized payment and information reporting system, to process and pay Medicaid claims.

Services provided under the Missouri Medicaid program include the three State-operated programs that were the subject of this review. The names of these programs, and the departments of the Missouri State Government that administer them, are as follows:

- Behavioral Health: Missouri Department of Social Services, Division of Youth Services,
- Child Initiative: Missouri Department of Social Services, Family Support Division, and
- First Steps: Missouri Department of Elementary and Secondary Education.

The departments of the Missouri State Government that administer these State-operated programs bill the State agency for Medicaid claims. The State agency reviews each claim, calculates the Federal share based on the FMAP in effect as of the date of service of that claim, and reimburses that calculated Federal share to the appropriate department. On a quarterly basis, the State agency claims State-operated program expenditures on line 49 (“Other Care Services”) of the CMS-64 report.

American Recovery and Reinvestment Act

The American Recovery and Reinvestment Act of 2009 (Recovery Act), P.L. No. 111-5, enacted February 17, 2009, provided, among other initiatives, fiscal relief to States to protect and maintain State Medicaid programs in a period of economic downturn. For the recession adjustment period (October 1, 2008, through December 31, 2010), the Recovery Act gave States an estimated \$87 billion in additional Medicaid funding based on temporary increases in States’ FMAPs.² Section 5000 of the Recovery Act provided these increases to help avert cuts in health

² The Education, Jobs, and Medicaid Assistance Act (P.L. No. 111-226) extended the recession adjustment period for the increased FMAP through June 30, 2011.

care provider reimbursement rates, benefits, or services and to prevent changes in income eligibility requirements that would reduce the number of individuals eligible for Medicaid. Sections 5001(a), (b), and (c) of the Recovery Act provided that a State's increased FMAP during the recession adjustment period would be no less than its 2008 FMAP increased by 6.2 percentage points, and added that a State could receive an increase greater than 6.2 percentage points based on increases to its average unemployment rate.

HOW WE CONDUCTED THIS REVIEW

During our audit period, the State agency claimed State-operated program expenditures totaling \$167,635,706 (\$109,403,198 Federal share). We reviewed all of these expenditures. Specifically, we compared the amounts claimed for Federal reimbursement to the claims data in the State agency's MMIS and to the State agency's accounting records to determine whether the State agency had actual claims to support the amounts reported on the CMS-64 reports. However, we did not perform detailed tests of the claims to determine allowability.

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 objectives.

Appendix A contains details of our audit scope and methodology.

FINDINGS

For the State-operated programs that were the subject of this review, most of the State agency's claims for Federal reimbursement during our audit period were properly supported by actual expenditures in accordance with Federal requirements and guidelines. However, the State agency incorrectly claimed State-operated program expenditures totaling \$361,346 (Federal share) during this period. These incorrectly claimed expenditures were apportioned among the State-operated programs as follows:

- Behavioral Health: \$256,486 (Federal share),
- Child Initiative: \$96,982 (Federal share), and
- First Steps: \$7,878 (Federal share).

The overpayments occurred because of inadequacies in the State agency's procedures for claiming these expenditures. Specifically, and contrary to Federal regulations and CMS guidelines, the State agency's procedures permitted it to use estimates when claiming State-operated program expenditures. The \$361,346 (Federal share) exceeded the amount that the State agency determined was allowable for these expenditures.

FEDERAL REQUIREMENTS AND GUIDELINES

Section 1903(A)(1) of the Act authorizes payment to the State of an amount equal to the FMAP of the total amount expended during the quarter as the medical assistance under an approved State plan. Federal regulations (42 CFR § 430.30(c)) and the Manual both specify that Medicaid claims developed on the basis of estimates are not allowable. See Appendix B for additional details about these Federal requirements and guidelines.

STATE AGENCY INCORRECTLY CLAIMED STATE-OPERATED PROGRAM EXPENDITURES

For the State-operated programs that were the subject of this review, most of the State agency's claims for Federal reimbursement during our audit period were properly supported by actual expenditures in accordance with Federal requirements and guidelines. However, the State agency incorrectly claimed State-operated program expenditures totaling \$361,346 (Federal share) during this period.

State Agency's Incorrect Procedures for Claiming State-Operated Program Expenditures

The State-operated program expenditures that the State agency claimed for Federal reimbursement during our audit period were estimates and differed from the total allowable amount of the claims as determined by the State agency. Although the State agency claimed State-operated program expenditures totaling \$167,635,706 (\$109,403,198 Federal share), the allowable amount as reflected in the claims data totaled \$167,096,881 (\$109,041,852 Federal share). The difference, \$538,825 (\$361,346 Federal share), represented unallowable Federal reimbursement.

For the three State-operated programs covered by this review, the departments of the Missouri State Government billed the State agency for Medicaid claims. The State agency reviewed each claim, calculated the Federal share based on the FMAP in effect as of the date of service of that claim, and reimbursed that calculated Federal share to the appropriate department. The amounts reimbursed to the departments that administered these State-operated programs made no adjustments for the temporary increases in Medicaid funding that were provided by the Recovery Act.

The State agency then claimed those State-operated expenditures for Federal reimbursement as current-quarter expenditures. Rather than claiming these expenditures based on amounts that the State agency had determined were allowable, the State agency developed the amounts to claim for Federal reimbursement by using a procedure for which there was no written policy and which relied on estimates.

Specifically, to determine the amounts to claim for State-operated program expenditures, the State agency used a reverse calculation to "back in" to the amounts to claim on the CMS-64 reports. This procedure had several aspects, which taken together meant that the claimed amounts did not reflect actual recorded expenditures:

- For each claim, the State agency used the FMAP in effect on the claim's date of service to reimburse the appropriate department of the Missouri State Government.
- When claiming that expenditure on the CMS-64 report, the State agency used the FMAP in effect during the period that the State agency paid the claim.
- Although our audit period partially overlapped with the recession adjustment period identified by the Recovery Act, the State agency did not factor the increased FMAPs (provided by that legislation) into either its reimbursements to the departments that administered the State-operated program or the expenditures it claimed for Federal reimbursement.
- For the reporting quarters that fell within the recession adjustment period, CMS reimbursed the State agency at the increased FMAPs provided by the Recovery Act.

Example of the State Agency's Procedures for Claiming State-Operated Program Expenditures

The following is an example of the inadequate procedures which led to the State agency to incorrectly claim some State-operated program expenditures during the quarter ending on December 31, 2010. The State agency took the following actions in this example:

- The State agency received three claims from the Missouri Department of Social Services, Family Support Division, for the Child Initiative program. Each claim covered a month's worth of services in which a child attended a community psychiatric support program. The services took place from July through September 2010 (i.e., within Federal fiscal year (FY) 2010) and totaled \$23,368.00.
- The State agency reviewed these claims and approved the entire billed amount of \$23,368.00 as allowable.
- The State agency calculated the Federal share for these claims as \$15,074.70. The State agency based this calculation on the FMAP in effect during the claims' dates of services (i.e., 64.51 percent, which was the FMAP for FY 2010).³
- The State agency paid the Federal share that it had calculated (\$15,074.70) to the Missouri Department of Social Services, Family Support Division, during the quarter ending on December 31, 2010 (in FY 2011).
- The State agency assessed the amount to claim on line 49 of the CMS-64 report for these three claims. The State agency's procedure was to divide the amount it had paid (using the FY 2010 FMAP, and without factoring in the increased FMAP) to the Missouri

³ During this period, the increased FMAP for the State of Missouri, under the provisions of the Recovery Act, was 74.43 percent. The State agency's procedures for determining the Federal share did not take the increased FMAPs into account.

Department of Social Services, Family Support Division (\$15,074.70), by the FMAP for FY 2011 (i.e., 63.29 percent⁴). The result of this calculation was \$23,818.45 (i.e., \$15,074.70/.6329).

- The State agency then claimed the \$23,818.45 as part of the State-operated program expenditures that it claimed on line 49 of the CMS-64 report submitted for the quarter ending on December 31, 2010. For this period, the increased FMAP, as provided by the Recovery Act, was 74.43 percent.
- The State agency subsequently received the Federal share of the \$23,818.45, for a total payment from CMS for these three claims of \$17,728.07 (i.e., \$23,818.45 * .7443).

For these three claims, we questioned the difference between the \$23,818.45 (the amount claimed on line 49 of the CMS-64 report) and the \$23,368.00 (the amount billed, as well as the allowed amount), for a total questioned amount of \$450.45 (\$335.27 Federal share).

INADEQUATE PROCEDURES ALLOWED THE USE OF ESTIMATES WHEN CLAIMING EXPENDITURES

The overpayments occurred because of inadequacies in the State agency's procedures for claiming State-operated program expenditures for Federal reimbursement. Specifically, and contrary to Federal regulations and CMS guidelines, the State agency's procedures permitted it to use estimates when claiming these expenditures. This procedure was not supported by a written policy and did not conform to the relevant provisions of 42 CFR § 430.30(c) and the Manual.

EFFECT OF INCORRECTLY CLAIMED STATE-OPERATED PROGRAM EXPENDITURES

Although the State agency claimed \$167,635,706 (\$109,403,198 Federal share) for State-operated program expenditures during our audit period, the allowable amount totaled \$167,096,881 (\$109,041,852 Federal share), for a difference of \$538,825 (\$361,346 Federal share) in incorrectly claimed State-operated program expenditures.

RECOMMENDATIONS

We recommend that the State agency:

- refund \$361,346 to the Federal Government,

⁴ The 63.29 percent FMAP was for the period when the State agency reimbursed the Missouri Department of Social Services, Family Support Division; however, the Recovery Act increased the FMAP for this period from 63.29 percent to 74.43 percent.

- work with CMS to determine, for quarterly reporting periods subsequent to our audit period, the amount of State-operated program expenditures that the State agency claimed on the basis of estimates and refund any overpayments to the Federal Government, and
- strengthen policies and procedures to ensure that it determines and claims State-operated program expenditures in conformance with Federal regulations and guidelines.

STATE AGENCY COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE

In written comments on our draft report, the State agency did not directly address our recommendations but disagreed that it was overpaid for its claims for the State-operated program expenditures and that it had used estimates to support its claim. To convey the specific elements of its disagreements with our findings and with the methodology we used to reach those findings, the State agency addressed, point by point, the statements in our example of the State agency's procedures for claiming State-operated program expenditures. Both these specific comments and the State agency's overall comments had three principal elements: (1) payment for services happened (and was recorded in the State agency's accounting system) not on the date that the State agency disbursed a Federal draw to the appropriate State department, but rather on the date those services were provided; (2) the State agency did not use estimates to support its claimed expenditures; and (3) CMS was aware of, and had never questioned, the State agency's methodology for claiming these expenditures.

A summary of the State agency's comments and our response follows.

The State agency's comments appear in their entirety as Appendix C.

After reviewing the State agency's comments, we maintain that our findings and recommendations remain valid. During our audit period, the State agency claimed State-operated program expenditures totaling \$167,635,706 (\$109,403,198 Federal share); for the same period, the allowable amount as reflected in the claims data totaled \$167,096,881 (\$109,041,852 Federal share). The difference, \$538,825 (\$361,346 Federal share), represented unallowable Federal reimbursement.

DATE OF PAYMENT FOR SERVICES

State Agency Comments

The State agency cited the Manual, section 2500(D)(2): "When reporting expenditures for Federal [r]eimbursement, apply the FMAP rate in effect at the time the expenditure was recorded in your accounting system." The State agency said that payment for services happened on the date that the services were actually provided. Accordingly, this "payment date" was the date the expenditure was recorded in the State agency's accounting system and was, therefore, the date to be used for determining the appropriate FMAP to apply to the expenditures. The State agency also said that the date that it disbursed a Federal draw to another department of the Missouri

State Government that administered State-operated programs was not the payment date for the services rendered.

Office of Inspector General Response

In developing our findings, we used the dates on which the State agency claimed State-operated program expenditures, as reflected in the CMS-64 reports, to identify the dates of payment for services. We also used the FMAPs that the State agency used when completing the CMS-64 reports. For each claimed expenditure, then, and in conformance with section 2500(D)(2) of the Manual, this was the FMAP in effect on the date that the State agency (1) reimbursed the appropriate State-operated program with which that expenditure was associated and (2) recorded that expenditure, and that date, in the State agency's MMIS. In this respect, we note that in its specific comments on our example of the State agency's procedures, the State agency agreed with our statement that it calculated the Federal share for the claims in the example as \$15,074.70.

The difference between our calculations and the State agency's was that we used the allowed amount that the State agency approved for each claim and (using the correct FMAPs, to include the increased FMAPs in effect for quarters that fell within the recession adjustment period) calculated the correct Federal share of these allowable amounts.⁵ By contrast, the State agency used an incorrect procedure, that involved reverse calculations and that did not properly account for the increased FMAPs, to claim State-operated program expenditures; because the procedure was incorrect, the expenditures were incorrectly claimed. For the quarters that fell within the recession adjustment period, CMS then reimbursed the State agency for these expenditures at the increased FMAPs provided by the Recovery Act.

USE OF ESTIMATES

State Agency Comments

The State agency disagreed that it used estimates to support its claimed State-operated program expenditures and said that the methodology we used to reach that conclusion was incorrect. To elaborate upon these disagreements, the State agency addressed, point by point, the statements in "Example of the State Agency's Procedures for Claiming State-Operated Program Expenditures." In so doing, the State agency agreed with some of the specific statements in our example but disagreed with other statements in it. Specifically, with respect to the fourth bullet in our example, the State agency said, "The State agency did not *pay* DSS [Missouri Department of Social Services], Family Support Division during the quarter ending on December 31, 2010. Rather, DSS *drew in federal funds* for claims processed during the quarter ending on December 31, 2010." (Emphasis in original.) The State agency concluded that "[t]here were no estimates (claims were fully supported) and the federal share claimed equals the federal share earned."

⁵ A more detailed discussion of the differences between the State agency's and our calculations appears in "State Agency's Incorrect Procedures for Claiming State-Operated Program Expenditures" earlier in this report.

Office of Inspector General Response

The State agency generally agreed with the calculations as described in our example. Moreover, the State agency appeared to base much of its statement that it did not use estimates on the distinction it drew between *drawing down Federal funds* to reimburse other departments of the Missouri State Government and *paying* these departments. In an email to us dated June 7, 2013, the Interim Deputy Division Director of the State agency stated that the Federal share was *paid* to the State-operated programs.

Furthermore, nothing in the State agency's comments caused us to change the statements in our finding that (1) the State agency used a reverse calculation to "back in" to the amounts to claim on the CMS-64 reports and that (2) the claimed amounts did not reflect actual recorded expenditures and therefore differed from the allowable amounts. Claimed expenditures that were developed using procedures with these inadequacies thus constituted the use of estimates and, therefore, did not comply with these instructions in section 2500(A)(1) of the Manual:

Claims developed through the use of sampling, projections, or other estimating techniques are considered estimates and are not allowable under any circumstances. Where you are unable to develop and document a claim for expenditures on a current basis, withhold it until the actual amount, supported by final documentation, has been determined. Report that amount on a future Form HCFA-64 [CMS-64 report] as a prior period adjustment.

CMS ROLE IN THE STATE AGENCY'S CLAIMING METHODOLOGY

State Agency Comments

The State agency said that it continues to work with CMS on its claiming methodology and added that CMS was aware of the methodology used by the State agency to report State-operated program expenditures on the CMS-64 report and has never questioned its use.

Office of Inspector General Response

The State agency did not give us any documentation, either during or subsequent to our audit work, to support its statement that CMS was aware of its methodology to claim State-operated program expenditures. Moreover, the fact that CMS had not questioned that methodology is not equivalent to CMS approval of that methodology. Further, the State agency's written comments did not dispute our statement that the State agency did not update its procedures to factor the increased FMAPs (provided by the Recovery Act) into either its reimbursements to the departments that administered the State-operated programs or its claimed expenditures. The lack of procedures regarding the implementation of the increased FMAPs reinforces the fact that it is the State agency, not CMS, that is responsible for the development and strengthening of policies and procedures governing the administration of all aspects of its Medicaid program.

APPENDIX A: AUDIT SCOPE AND METHODOLOGY

SCOPE

During our audit period, the State agency claimed Medicaid expenditures totaling \$264,350,264 (\$173,926,083 Federal share) on line 49 of the CMS-64 reports. For this review, we focused on the State-operated program expenditures totaling \$167,635,706 (\$109,403,198 Federal share) that the State agency claimed during this period. We compared the amounts reported on line 49 of the CMS-64 report for each quarter to the claims data in the State agency's MMIS and to the State agency's accounting records to determine whether the State agency had actual claims to support the amounts reported on the CMS-64 report. However, we did not perform detailed tests of the claims to determine allowability.

Our objective did not require a review of the State agency's overall internal control structure. Therefore, we limited our internal control review to those controls that dealt with the State agency's procedures for calculating and reporting State-operated program expenditures for our audit period.

METHODOLOGY

To accomplish our objective, we:

- reviewed applicable Federal laws and regulations and applicable portions of the Missouri State Medicaid plan;
- interviewed State agency officials to gain an understanding of the State agency's policies and procedures for reporting State-operated program expenditures and of the systems used by the State agency for reporting Medicaid expenditures;
- reviewed line 49 of the CMS-64 reports for our audit period and compared the amounts claimed for Federal reimbursement to the information in the State agency's MMIS and to the State agency's accounting records;⁶
- calculated the Medicaid overpayments that the State agency received for State-operated program expenditures; and
- discussed the results of our review with State agency officials on September 8, 2014, and provided them with detailed data supporting our findings.

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

⁶ The State agency claims data did not match the CMS-64 report because of issues with adjustments; however, based on our review, we concluded that no adjustments were deducted from State-operated program expenditures before being claimed on line 49 of the CMS-64 report.

based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

APPENDIX B: FEDERAL REQUIREMENTS RELATED TO MEDICAID PAYMENTS

FEDERAL REQUIREMENTS

Section 1903(A)(1) of the Act authorizes payment to the State of an amount equal to the FMAP of the total amount expended during the quarter as medical assistance under an approved State plan.

Federal regulations (42 CFR § 430.30(c)) state:

- (1) The State must submit Form CMS-64 (Quarterly Medicaid Statement of Expenditures for the Medical Assistance Program) to the [CMS] central office (with a copy to the regional office) not later than 30 days after the end of each quarter.
- (2) This report is the State's accounting of actual recorded expenditures. The disposition of Federal funds may not be reported on the basis of estimates.

Federal regulations (45 CFR § 95.13(b)) consider the State agency's expenditures for services to have been made in the quarter in which any State agency made a payment to the service provider.

The Manual, section 2500.2, provides instructions for the preparation of the CMS-64 report and states (§ 2500.2.A): "Report only expenditures for which all supporting documentation, in readily reviewed form, has been compiled and which is immediately available when the claim is filed.... Do not report estimated amounts. Claims developed through the use of sampling, projections, or other estimating techniques are estimates and are not allowable."

In addition, the Manual, section 2560.4(G)(1), provides that any State agency can incur the public facility expenditure.

APPENDIX C: STATE AGENCY COMMENTS



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March 26, 2015

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

Re: Audit Report Number: A-07-14-03197
Audit Period: October 1, 2010 through June 30, 2012
Auditor: HHS/Office of Inspector General (OIG) Audit
Program: State-Operated Medicaid Program Expenditures

Dear Mr. Cogley:

This letter is in response to your letter dated February 10, 2015, received February 11, 2015, regarding the U.S. Department of Health and Human Services, Office of Inspector General (OIG) draft report entitled *Some of the State-Operated Medicaid Program Expenditures Claimed by Missouri During the Period October 1, 2010, Through June 30, 2012* report number A-07-14-03197.

We disagree that the state was overpaid for its claims for the State-operated programs Behavioral Health, Child Initiative, and First Steps. We also disagree that the state used estimates to support its federal claim.

Per the State Medicaid Manual section 2500 D. 2., "When reporting expenditures for Federal Reimbursement, apply the FMAP rate in effect at the time the expenditure was recorded in your accounting system." For services provided by state-operated programs, the date of service is the date the expenditure was recorded in the state's accounting system, and therefore, the date to be used for determining the appropriate FMAP to apply to the expenditure. The date the Department of Social Services (DSS) disburses a federal draw to other state agencies for services provided is not the payment date for the services. The payment for services happened on the date they were actually provided.

DSS ensures the claim for federal funds on the CMS-64 equals the federal funds that were earned. The methodology used by the OIG to conclude that the State was overpaid and used estimates is incorrect. Using the example provided in the OIG audit report:

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The state agency received three claims for the Child Initiative program. Each claim covered a month's worth of services. The services took place from July through September 2010 (i.e. with federal fiscal year 2010) and totaled \$23,368.

OIG Report: The state agency reviewed these claims and approved the entire billed amount of \$23,368 as allowable.

State Response: The claims adjudicated in MMIS and were determined to be allowable. The state does not have personnel reviewing each individual claim.

OIG Report: The State agency calculated the Federal share for these claims as \$15,074.70. The state agency based the calculation on the FMAP in effect during the claims' dates of services (i.e., 64.51 percent, which was the FMAP for FY 2010).

State Response: We agree that based on the dates of service, MMIS calculated the federal share of these claims as \$15,074.70.

OIG Report: The State agency paid the Federal share that it had calculated (\$15,074.70) to the Missouri Department of Social Services, Family Support Division, during the quarter ending on December 31, 2010 (in FY2011).

State Response: The State agency did not *pay* DSS, Family Support Division during the quarter ending on December 31, 2010. Rather, DSS *drew in federal funds* for claims processed during the quarter ending on December 31, 2010.

OIG Report: The State agency assessed the amount to claim on line 49 of the CMS-64 report for these three claims. The State agency's procedure was to divide the amount it had paid (using the FY 2010 FMAP, and without factoring in the increased FMAP) to the Department of Social Services, Family Support Division (\$15,074.70), by the FMAP for FY 2011 (i.e., 63.29 percent). The result of the calculation was \$23,818.45 (i.e., $\$15,074.70 / .6329$).

State Response: We agree that these three claims were reported on the referenced line of the CMS-64.9. The State agency's procedure was to divide the *federal share earned (not the amount it had paid)* by the current FMAP (63.29%). We agree the result of the calculation was \$23,818.45. This procedure claimed the expenditures as a current period expenditure and ensured the federal share that was earned was claimed correctly.

OIG Report: The State agency then claimed the \$23,818.45 as part of the State-operated program expenditures that it claimed on line 49 of the CMS-64 report submitted for the quarter ending on

Patrick J. Cogley
Page 3

December 31, 2010. For this period, the increased FMAP, as provided by the Recovery Act, was 74.43 percent.

State Response: We agree.

OIG Report: The State agency subsequently received the Federal share of \$23,818.45 for a total payment from CMS for these three claims of \$17,728.07 (i.e. $\$23,818.45 * .7443$).

State Response: We agree.

OIG Report: For these three claims, we questioned the difference between the \$23,818.45 (the amount claimed on line 49 of the CMS-64 report) and the \$23,368.00 (the amount that billed, as well as the allowed amount), for the total questioned amount of \$450.45 (\$335.27 Federal Share).

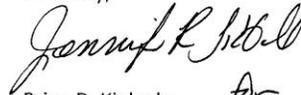
State Response: We disagree. The federal share earned (at the regular FMAP) is the federal share that we claimed (regular FMAP). The enhanced FMAP for the 4th quarter 2010 (quarter services were paid) and the 1st quarter 2011 (quarter funds were drawn) was 74.43 percent. The federal share that was earned, as demonstrated by the claims data, is equal to the federal share that was claimed on the CMS 64.

The State agency's claims reported on line 49 of the CMS-64 were supported by the claim detail. The OIG did not find any problems with the claim detail provided. In addition, the federal share that was earned when the claims were paid (i.e. date of service for public providers) is the federal share that was claimed on the CMS-64. There were no estimates (claims were fully supported) and the federal share claimed equals the federal share earned.

The State agency continues to work with CMS on its claiming methodology. CMS is aware of the methodology used by the State to report expenditures of the agencies identified in this report and has never questioned its use.

Should you have any questions, please contact Patrick Luebbering, Director, Division of Finance and Administrative Services, at (573)751-7533 or Patrick.Luebbering@dss.mo.gov.

Sincerely,



Brian D. Kinkade
Director

BDK:JRT:bsb

c: Patrick Luebbering, DSS, Division of Finance and Administrative Services