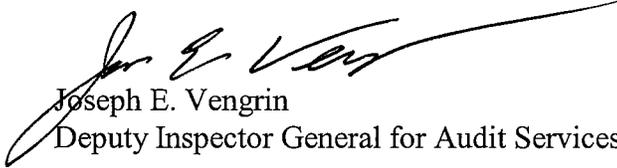




DEC 18 2006

**TO:** Leslie V. Norwalk, Esq.  
Acting Administrator  
Centers for Medicare & Medicaid Services

**FROM:**   
Joseph E. Vengrin  
Deputy Inspector General for Audit Services

**SUBJECT:** Review of Nevada's Medicaid School-Based Administrative Expenditures for Calendar Years 2003 and 2004 (A-09-05-00054)

Attached is an advance copy of our final report on the Nevada Division of Health Care Financing and Policy's (the State agency) Medicaid school-based administrative expenditures for calendar years (CY) 2003 and 2004. We will issue this report to the State agency within 5 business days. We performed this audit at the request of the Centers for Medicare & Medicaid Services (CMS).

The Federal Government may reimburse States for administrative costs associated with Medicaid school-based health services. These costs include expenditures for outreach, facilitation of eligibility determinations, information and referral services, health service coordination and monitoring, and interagency coordination. The Federal share for such costs is 50 percent. Medicaid school-based administrative costs claimed for Federal reimbursement are subject to Federal cost principles in Office of Management and Budget Circular A-87. For costs to be allowable, they must be allocable, reasonable, and necessary.

For CYs 2003 and 2004, the State agency claimed approximately \$25 million (\$12.5 million Federal share) for Medicaid school-based administrative expenditures incurred by the Clark County School District (the school district). The school district contracted with a consultant, MAXIMUS, Inc. (MAXIMUS), to assist with administering timestudies and calculating Medicaid school-based administrative expenditures.

Our initial objective was to determine whether the State agency's claims for Medicaid school-based administrative expenditures were allowable and supported. Because of information that we discovered while reconciling these expenditures to supporting documentation, we added another objective: to determine whether the State agency adequately safeguarded confidential health data that it shared with MAXIMUS.

For CYs 2003 and 2004, the State agency claimed \$5,793,236 (Federal share) for Medicaid school-based administrative expenditures that were not allowable. The unallowable expenditures consisted of:

- \$3,971,280 for capital expenditures that were not approved by CMS and associated debt service costs,
- \$935,897 for fringe benefit and employee wage costs that were not necessary or reasonable,
- \$488,546 for activities fully funded or reimbursed by sources other than Medicaid,
- \$395,428 for costs that were not related to Medicaid school-based administration, and
- \$2,085 for consulting fees that were contingent on the receipt of Federal reimbursement.

The State agency claimed these unallowable expenditures because it did not have adequate policies and procedures to ensure that it claimed Medicaid school-based administrative expenditures in accordance with Federal cost principles.

In addition, the State agency claimed \$775,180 (Federal share) for Medicaid school-based administrative expenditures for the summer quarter of 2004 (July 1 through September 30). CMS guidance requires that costs claimed for summer quarters be supported with timestudies showing the amount of time that employees spent on Medicaid school-based administrative activities. However, the State agency did not require the school district to conduct timestudies for summer quarters. Without a timestudy for the summer quarter of 2004, we are unable to express an opinion on the \$775,180 claimed.

Finally, the State agency did not follow its own policies and procedures to safeguard confidential Medicaid beneficiary health data as required by the Health Insurance Portability and Accountability Act of 1996 and Federal regulations. The State agency allowed these confidential data to be released to MAXIMUS without written assurance that the information would be adequately safeguarded.

We recommend that the State agency:

- refund \$5,793,236 to the Federal Government,
- review claims for Medicaid school-based administrative expenditures after our audit period and refund the Federal share of any unallowable costs,
- strengthen its policies and procedures to ensure that it claims Federal funds only for Medicaid school-based administrative expenditures that are allowable and supported,

- require the school district to conduct timestudies during summer quarters when employees perform Medicaid school-based administrative activities and work with CMS to determine the allowability of \$775,180, and
- ensure that confidential health data are safeguarded pursuant to Federal law and regulations.

In its comments on our draft report, the State agency generally agreed with our recommendations and stated that it was actively engaged in implementing all of them.

If you have any questions or comments about this report, please do not hesitate to call me, or your staff may contact George M. Reeb, Assistant Inspector General for the Centers for Medicare & Medicaid Audits, at (410) 786-7104 or through e-mail at [George.Reeb@oig.hhs.gov](mailto:George.Reeb@oig.hhs.gov) or Lori A. Ahlstrand, Regional Inspector General for Audit Services, Region IX, at (415) 437-8360 or through e-mail at [Lori.Ahlstrand@oig.hhs.gov](mailto:Lori.Ahlstrand@oig.hhs.gov). Please refer to report number A-09-05-00054.

Attachment



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of Inspector General

Region IX  
Office of Audit Services  
50 United Nations Plaza, Room 171  
San Francisco, CA 94102

DEC 22 2006

Report Number: A-09-05-00054

Mr. Charles Duarte  
Administrator  
Department of Health and Human Services  
Division of Health Care Financing and Policy  
1100 East William Street, Suite 101  
Carson City, Nevada 89701

Dear Mr. Duarte:

Enclosed are two copies of the U.S. Department of Health and Human Services (HHS), Office of Inspector General (OIG) final report entitled "Review of Nevada's Medicaid School-Based Administrative Expenditures for Calendar Years 2003 and 2004." A copy of this report will be forwarded 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 the HHS action 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.

In accordance with the principles of the Freedom of Information Act, 5 U.S.C. § 552, as amended by Public Law 104-231, OIG reports issued to the Department's grantees and contractors are made available to the public to the extent the information is not subject to exemptions in the Act that the Department chooses to exercise (see 45 CFR part 5).

Please refer to report number A-09-05-00054 in all correspondence.

Sincerely,

A handwritten signature in black ink, appearing to read "Lori A. Ahlstrand".

Lori A. Ahlstrand  
Regional Inspector General  
for Audit Services

Enclosures

**Direct Reply to HHS Action Official:**

Mr. Jeff Flick  
Regional Administrator  
Centers for Medicare & Medicaid Services, Region IX  
75 Hawthorne Street, Suite 408  
San Francisco, California 94105

Department of Health and Human Services

**OFFICE OF  
INSPECTOR GENERAL**

**REVIEW OF NEVADA'S MEDICAID  
SCHOOL-BASED ADMINISTRATIVE  
EXPENDITURES FOR CALENDAR  
YEARS 2003 AND 2004**



Daniel R. Levinson  
Inspector General

December 2006  
A-09-05-00054

# ***Office of Inspector General***

<http://oig.hhs.gov>

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# *Notices*

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In accordance with the principles of the Freedom of Information Act (5 U.S.C. 552, as amended by Public Law 104-231), Office of Inspector General, Office of Audit Services reports are made available to members of the public to the extent the information is not subject to exemptions in the act. (See 45 CFR part 5.)

## **OAS FINDINGS AND OPINIONS**

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



## **EXECUTIVE SUMMARY**

### **BACKGROUND**

We performed this audit at the request of the Centers for Medicare & Medicaid Services (CMS).

The Federal Government may reimburse States for administrative costs associated with Medicaid school-based health services. These costs include expenditures for outreach, facilitation of eligibility determinations, information and referral services, health service coordination and monitoring, and interagency coordination. The Federal share for such costs is 50 percent. Medicaid school-based administrative costs claimed for Federal reimbursement are subject to Federal cost principles in Office of Management and Budget Circular A-87. For costs to be allowable, they must be allocable, reasonable, and necessary.

For calendar years (CY) 2003 and 2004, Nevada's Division of Health Care Financing and Policy (the State agency) claimed approximately \$25 million (\$12.5 million Federal share) for Medicaid school-based administrative expenditures incurred by the Clark County School District (the school district). The school district contracted with a consultant, MAXIMUS, Inc. (MAXIMUS), to assist with administering timestudies and calculating Medicaid school-based administrative expenditures.

### **OBJECTIVES**

Our initial objective was to determine whether the State agency's claims for Medicaid school-based administrative expenditures were allowable and supported. Because of information that we discovered while reconciling these expenditures to supporting documentation, we added another objective: to determine whether the State agency adequately safeguarded confidential health data that it shared with MAXIMUS.

### **SUMMARY OF FINDINGS**

For CYs 2003 and 2004, the State agency claimed \$5,793,236 (Federal share) for Medicaid school-based administrative expenditures that were not allowable. The unallowable expenditures consisted of:

- \$3,971,280 for capital expenditures that were not approved by CMS and associated debt service costs,
- \$935,897 for fringe benefit and employee wage costs that were not necessary or reasonable,
- \$488,546 for activities fully funded or reimbursed by sources other than Medicaid,
- \$395,428 for costs that were not related to Medicaid school-based administration, and

- \$2,085 for consulting fees that were contingent on the receipt of Federal reimbursement.

The State agency claimed these unallowable expenditures because it did not have adequate policies and procedures to ensure that it claimed Medicaid school-based administrative expenditures in accordance with Federal cost principles.

In addition, the State agency claimed \$775,180 (Federal share) for Medicaid school-based administrative expenditures for the summer quarter of 2004 (July 1 through September 30). CMS guidance requires that costs claimed for summer quarters be supported with timestudies showing the amount of time that employees spent on Medicaid school-based administrative activities. However, the State agency did not require the school district to conduct timestudies for summer quarters. Without a timestudy for the summer quarter of 2004, we are unable to express an opinion on the \$775,180 claimed.

Finally, the State agency did not follow its own policies and procedures to safeguard confidential Medicaid beneficiary health data as required by the Health Insurance Portability and Accountability Act of 1996 and Federal regulations. The State agency allowed these confidential data to be released to MAXIMUS without written assurance that the information would be adequately safeguarded.

## **RECOMMENDATIONS**

We recommend that the State agency:

- refund \$5,793,236 to the Federal Government,
- review claims for Medicaid school-based administrative expenditures after our audit period and refund the Federal share of any unallowable costs,
- strengthen its policies and procedures to ensure that it claims Federal funds only for Medicaid school-based administrative expenditures that are allowable and supported,
- require the school district to conduct timestudies during summer quarters when employees perform Medicaid school-based administrative activities and work with CMS to determine the allowability of \$775,180, and
- ensure that confidential health data are safeguarded pursuant to Federal law and regulations.

## **STATE AGENCY'S COMMENTS**

In its comments on the draft report, the State agency generally agreed with our recommendations and stated that it was actively engaged in implementing all of them. The full text of the State agency's comments is included as the Appendix.

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## INTRODUCTION

### BACKGROUND

We performed this audit at the request of the Centers for Medicare & Medicaid Services (CMS).

#### Medicaid Program

Title XIX of the Social Security Act established the Medicaid program to pay medical assistance costs for certain individuals and families with limited incomes and resources. Each State Medicaid program is administered in accordance with a State plan approved by CMS. The Federal Government and the States share the cost of the Medicaid program.

#### Medicaid School-Based Administrative Costs

The Federal Government may reimburse States for administrative costs associated with Medicaid school-based health services that school districts provide. These costs include expenditures for outreach, facilitation of eligibility determinations, information and referral services, health service coordination and monitoring, and interagency coordination. The Federal share for such costs is 50 percent. Medicaid school-based administrative costs claimed for Federal reimbursement are subject to Federal cost principles in Office of Management and Budget (OMB) Circular A-87.<sup>1</sup> For the costs to be allowable, they must be allocable, reasonable, and necessary.

In February 2000, CMS issued a draft of the “Medicaid School-Based Administrative Claiming Guide” to clarify and consolidate the requirements for claiming Medicaid school-based administrative expenditures. The purpose of the guide was to inform schools, State Medicaid agencies, and other interested parties of the appropriate methods for claiming Federal funds for the costs of Medicaid administrative activities performed in school settings. CMS finalized the guide in May 2003 and notified States in a transmittal memo that they had to comply with all the guide’s requirements by October 1, 2003.

#### Nevada Medicaid School-Based Administrative Expenditures

In Nevada, the Division of Health Care Financing and Policy (the State agency) administers the Medicaid program. In 2002, CMS approved the State agency’s request to claim Federal funds for Medicaid school-based administrative expenditures.

For calendar years (CY) 2003 and 2004, the State agency claimed Federal funds for Medicaid school-based administrative expenditures incurred by the Clark County School District (the school district). During this period, the school district was the only district approved by the State agency for reimbursement of Medicaid school-based administrative expenditures.

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<sup>1</sup>Pursuant to 45 CFR § 92.22, a State’s allowable costs are determined in accordance with Federal cost principles in OMB Circular A-87.

CMS approved the State agency's claiming implementation plan in January 2002. The plan allowed the State agency to claim the following costs as direct costs of Medicaid school-based administration if they could be directly attributed to school district employees who performed Medicaid school-based administrative activities:

- salary and benefit costs,
- costs of supervisory and clerical staff that supported school district employees who performed Medicaid school-based administrative activities,
- costs of contracted professional and technical services, and
- any other costs that were directly attributable to school district employees who performed Medicaid school-based administrative activities.

For costs that were related to Medicaid school-based administration but not directly attributable to school district employees who performed Medicaid school-based administrative activities, CMS approved the State agency to claim an allocated portion of the costs as direct costs. Such costs included supplies and equipment related to Medicaid school-based administration. The State agency was required to allocate the costs of Medicaid school-based administration by dividing the salaries and benefits of school district employees who performed Medicaid school-based administrative activities by the salaries and benefits of all school district employees.

Except for the summer quarters, the State agency required the school district to conduct quarterly timestudies to determine the amount of time that school district employees spent performing Medicaid school-based administrative activities. For the summer quarters, the school district used an average of the timestudy results from the prior three quarters. The school district used the timestudy results to identify all costs for Medicaid school-based administrative activities.

The school district contracted with a consultant, MAXIMUS, Inc. (MAXIMUS), to assist with administering timestudies and calculating Medicaid school-based administrative expenditures.

## **OBJECTIVES, SCOPE, AND METHODOLOGY**

### **Objectives**

Our initial objective was to determine whether the State agency's claims for Medicaid school-based administrative expenditures were allowable and supported. Because of information that we discovered while reconciling these expenditures to supporting documentation, we added another objective: to determine whether the State agency adequately safeguarded confidential health data that it shared with MAXIMUS.

### **Scope**

We reviewed the State agency's claims for Medicaid school-based administrative expenditures for CYs 2003 and 2004. During this period, the State agency claimed approximately \$25 million (\$12.5 million Federal share) for the school district's administrative expenditures.

We did not perform a detailed review of the State agency's internal controls. We limited our review to obtaining an understanding of the State agency's policies and procedures used to (1) calculate and claim the Federal share for Medicaid school-based administrative expenditures and (2) maintain and safeguard confidential health data that the State agency shared with MAXIMUS.

We performed our fieldwork from March through September 2005 in the State agency's offices in Carson City, Nevada; the school district's administrative offices and schools throughout Clark County, Nevada; and MAXIMUS's office in Las Vegas, Nevada.

## **Methodology**

To accomplish our objectives, we:

- reviewed applicable Federal requirements, including section 1903 of the Social Security Act, the Health Insurance Portability and Accountability Act of 1996 (HIPAA), OMB Circular A-87, and CMS guidance;<sup>2</sup>
- reviewed the State agency's and the school district's policies and procedures for calculating and claiming Medicaid school-based administrative expenditures;
- reviewed the State agency's policies and procedures for maintaining and safeguarding confidential health data;
- reviewed supporting documentation from the State agency, the school district, and MAXIMUS;
- obtained documentation from the State agency showing Medicaid school-based administrative expenditures and the Federal funds claimed;
- reconciled the State agency's Medicaid school-based administrative expenditures to supporting documentation, which consisted of individual invoices that the school district submitted to the State agency; and
- interviewed officials from CMS, the State agency, the school district, and MAXIMUS.

We performed our audit in accordance with generally accepted government auditing standards.

## **FINDINGS AND RECOMMENDATIONS**

For CYs 2003 and 2004, the State agency claimed \$5,793,236 (Federal share) for Medicaid school-based administrative expenditures that were not allowable. The State agency claimed these unallowable expenditures because it did not have adequate policies and procedures to ensure that it claimed Medicaid school-based administrative expenditures in accordance with Federal cost principles.

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<sup>2</sup>We used the OMB Circular A-87 issued in August 1997. The circular was revised during our audit period (in May 2004), but the revisions did not affect our findings.

In addition, the State agency claimed \$775,180 (Federal share) for Medicaid school-based administrative expenditures for the summer quarter of 2004 (July 1 through September 30). CMS guidance requires that costs claimed for summer quarters be supported with timestudies showing the amount of time that employees spent on Medicaid school-based administrative activities. However, the State agency did not require the school district to conduct timestudies for summer quarters. Without a timestudy for the summer quarter of 2004, we are unable to express an opinion on the \$775,180 claimed.

Finally, the State agency did not follow its own policies and procedures to safeguard confidential Medicaid beneficiary health data as required by HIPAA and Federal regulations. The State agency allowed these confidential data to be released to MAXIMUS without written assurance that the information would be adequately safeguarded.

### **COSTS NOT ALLOWABLE**

The State agency claimed \$5,793,236 (Federal share) for unallowable Medicaid school-based administrative expenditures.<sup>3</sup> The unallowable expenditures consisted of:

- \$3,971,280 for capital expenditures that were not approved by CMS and associated debt service costs,
- \$935,897 for fringe benefit and employee wage costs that were not necessary or reasonable,
- \$488,546 for activities fully funded or reimbursed by sources other than Medicaid,
- \$395,428 for costs that were not related to Medicaid school-based administration, and
- \$2,085 for consulting fees that were contingent on the receipt of Federal reimbursement.

### **Capital Expenditures Not Approved and Associated Debt Service Costs**

OMB Circular A-87, Attachment B, section 19.c., states: “Capital expenditures for equipment, including replacement equipment, other capital assets, and improvements . . . are allowable as a direct cost when approved by the awarding agency.” In addition, the “Medicaid School-Based Administrative Claiming Guide” requires that “The state Medicaid agency submit an administrative claiming implementation plan that provides a comprehensive description of the mechanisms and processes for claiming Medicaid administrative costs.” In its CMS-approved claiming implementation plan, the State agency did not indicate that it would claim Federal reimbursement for the school district’s capital expenditures.

In addition, OMB Circular A-87, Attachment B, section 26.b., states: “Financing costs (including interest) paid or incurred on or after the effective date of this Circular associated with the otherwise allowable costs of building acquisition, construction, or fabrication, reconstruction

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<sup>3</sup>The unallowable expenditures consisted of direct costs and the associated indirect costs.

or remodeling completed on or after October 1, 1980 is allowable . . . .” If the costs of building acquisition, construction, or renovation are unallowable, the associated financing costs are also unallowable.

Contrary to OMB Circular A-87, the State agency claimed \$3,971,280 (Federal share) for capital expenditures that were not approved by CMS and associated debt service costs. The amount consisted of \$1,829,996 for unapproved capital expenditures and \$2,141,284 for associated debt service costs.

#### *Capital Expenditures*

The State agency claimed \$1,829,996 (Federal share) of capital expenditures as direct costs of Medicaid school-based administration. The costs included the acquisition of building sites and the construction and renovation of buildings. However, the State agency did not obtain CMS approval to claim these costs as direct costs and did not include a description of the mechanisms and processes for claiming capital expenditures in its implementation plan. The State agency included these unallowable costs in its claim for Federal reimbursement.

#### *Debt Service Costs*

The State agency claimed \$2,141,284 (Federal share) for the school district’s debt service costs, which included the payment of principal and interest, related professional and financial service fees, bond premiums and discounts, and collection and distribution of ad valorem tax revenue associated with debt service or tax levies on capital projects. Because the school district’s capital expenditures were unallowable, the associated debt service costs were also unallowable. Each quarter, the school district directly charged an allocated portion of its total debt service costs to Medicaid school-based administration. The State agency included these unallowable costs in its claim for Federal reimbursement.

#### **Fringe Benefit and Employee Wage Costs Not Necessary or Reasonable**

OMB Circular A-87, Attachment A, section C.1.a., states that for costs to be allowable under Federal awards, the costs must “Be necessary and reasonable for proper and efficient performance and administration of Federal awards.”

Contrary to OMB Circular A-87, the State agency claimed \$935,897 (Federal share) for fringe benefit and employee wage costs that were not necessary or reasonable. The Federal share of unallowable expenditures consisted of \$877,343 for fringe benefit costs that were overstated and \$58,554 for employee wage costs that the school district did not incur.

#### *Fringe Benefit Costs Overstated*

The State agency claimed \$877,343 (Federal share) for fringe benefit costs that were overstated. The school district used two methods that were designed to capture the fringe benefit costs that were attributable to Medicaid school-based administration. Because the first method captured all

allowable fringe benefit costs, the costs claimed using the second method were not necessary or reasonable.

For the first method, on a quarterly basis, the school district identified employees who performed Medicaid school-based administrative activities. These employees participated in a timestudy to determine the amount of time that they spent on allowable Medicaid school-based administrative activities. The school district used the results of the timestudy to determine the fringe benefit costs that were directly chargeable as Medicaid school-based administration. This method was the only one approved by CMS and captured all of the school district's allowable fringe benefit costs.

For the second method, the school district, on a quarterly basis, directly charged an allocated portion of its total fringe benefit costs to Medicaid school-based administration. The costs charged using this method were not reasonable or necessary because the school district had already identified and charged the fringe benefit costs of employees who performed Medicaid school-based administrative activities. These unallowable costs of \$877,343 were subsequently included in the State agency's claim for Federal reimbursement, in addition to the costs that the school district properly charged using the first method.

#### *Employee Wage Costs Not Incurred*

The State agency claimed \$58,554 (Federal share) for school district employee wage costs that the school district did not incur. These costs were for the wages of the school district's hourly employees who did not work and were not paid during the summer quarters. The State agency included these unallowable costs in its claim for Federal reimbursement.

#### **Activities Fully Funded or Reimbursed by Sources Other Than Medicaid**

OMB Circular A-87, Attachment A, section C.1.h., states that costs must "Not be included as a cost . . . of any other Federal award . . ." In addition, the "Medicaid School-Based Administrative Claiming Guide" states that Federal funds may not be claimed for administrative activities if the costs of those activities have already been paid by other revenue sources. Examples of other revenue sources include Federal funds, State expenditures previously matched by the Federal Government, and insurance or other fees collected from nongovernmental sources. The guide also states: "To the extent the funding sources have paid or would pay for the costs at issue, federal Medicaid funding is not available and the costs must be removed from total costs."

Contrary to OMB Circular A-87 and CMS guidance, the State agency claimed \$488,546 (Federal share) for costs that were fully funded or reimbursed by sources other than Medicaid. The school district incurred these costs for operations of Federal grants and projects; food service, graphic arts production, and insurance and risk management programs; and trust funds. These costs were fully paid for by revenues received from Federal programs other than Medicaid, user charges, investment earnings, and other reimbursements for services.

Each quarter, the school district directly charged an allocated portion of its total special revenue, enterprise, internal service, and trust fund costs to Medicaid school-based administration. The State agency included these unallowable costs in its claim for Federal reimbursement.

### **Costs Not Related to Medicaid School-Based Administration**

OMB Circular A-87, Attachment A, subsection C.3.a., states that for costs to be allocable to a Federal award, the goods or services must be “chargeable or assignable to such cost objective in accordance with relative benefits received.”

Contrary to OMB Circular A-87, the State agency claimed \$395,428 (Federal share) for costs that were not related to Medicaid school-based administrative activities. The amount consisted of \$327,192 for costs of activities of non-Federal programs and \$68,236 for costs of purchased professional and technical services. Because these costs were not attributable to Medicaid school-based administrative activities, they were not allowable for Federal reimbursement.

#### *Activities of Non-Federal Programs*

The State agency claimed \$327,192 (Federal share) for the costs of activities of non-Federal programs. These programs were related to non-Medicaid school-based activities, including class size reduction, budget stabilization, and special education. Each quarter, the school district directly charged an allocated portion of its total costs for non-Federal programs to Medicaid school-based administration. The State agency included these unallowable costs in its claim for Federal reimbursement.

#### *Purchased Professional and Technical Services*

The State agency claimed \$68,236 (Federal share) for the school district’s costs of purchased professional and technical services. School district officials informed us that these services did not relate to or directly benefit Medicaid school-based administrative activities. Each quarter, the school district directly charged an allocated portion of its total costs for purchased professional and technical services to Medicaid school-based administration. The State agency included these unallowable costs in its claim for Federal reimbursement.

### **Consulting Fees Contingent on Federal Reimbursement Received**

OMB Circular A-87, Attachment B, section 33, states that for professional and consultant services to be allowable, they must not be “contingent upon recovery of the costs from the Federal Government.”

Contrary to OMB Circular A-87, the State agency claimed \$2,085 (Federal share) for consulting fees that the school district paid to MAXIMUS that were contingent on the receipt of the Federal share. Each quarter, the school district directly charged an allocated portion of its total costs for purchased professional and technical services, which included the consulting fees, to Medicaid school-based administration. Because these fees were contingent on the receipt of Federal reimbursement, they were not allowable for Federal reimbursement.

## **TIMESTUDY NOT CONDUCTED TO SUPPORT COSTS CLAIMED FOR SUMMER QUARTER**

For administrative costs claimed for a summer quarter, the “Medicaid School-Based Administrative Claiming Guide” states: “. . . If activities are actually performed during the summer period, the application of the results of time studies from the regular school year would not accurately reflect the costs associated with the summer period activities. In that case, a time study would also need to be conducted with respect to the summer period.”

CMS required States that claimed Federal funds for Medicaid school-based administrative activities to comply with this guidance by October 1, 2003.

The State agency claimed \$775,180 (Federal share) for Medicaid school-based administrative expenditures for the summer quarter of 2004 (July 1 through September 30).<sup>4</sup> Contrary to CMS guidance, the State agency did not require the school district to conduct a timestudy during the summer quarter to show the amount of time that employees actually spent on Medicaid school-based administrative activities. Instead, the State agency allowed the school district to use an average of the timestudy results from the prior three quarters. Without a timestudy to support the costs claimed for the summer quarter of 2004, we are unable to express an opinion on the \$775,180 claimed.

## **BENEFICIARY HEALTH DATA NOT ADEQUATELY SAFEGUARDED**

HIPAA requires entities that maintain or transmit information covered by HIPAA to maintain reasonable and appropriate administrative, technical, and physical safeguards to ensure the integrity and confidentiality of the information. Entities must also protect against unauthorized uses or disclosures of the information. Further, Federal regulations require that the entity disclosing the information obtain satisfactory assurance from the requesting entity that the information will be appropriately safeguarded. Pursuant to 45 CFR § 164.502(e)(2), the assurance must be documented in a written agreement. The State agency incorporated these requirements in its own policies and procedures.

The State agency did not follow its own policies and procedures to safeguard Medicaid beneficiary health data as required by HIPAA and Federal regulations. Each month, the State agency’s Medicaid Management Information System contractor released detailed Medicaid beneficiary information to MAXIMUS without obtaining the required written assurances from MAXIMUS. This information included each beneficiary’s first and last names, date of birth, gender, Social Security number, Medicaid eligibility, home and work addresses, income, and marital status.

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<sup>4</sup>The \$775,180 represents the remaining costs claimed for the summer quarter after we removed all unallowable costs identified in this report.

## **RECOMMENDATIONS**

We recommend that the State agency:

- refund \$5,793,236 to the Federal Government,
- review claims for Medicaid school-based administrative expenditures after our audit period and refund the Federal share of any unallowable costs,
- strengthen its policies and procedures to ensure that it claims Federal funds only for Medicaid school-based administrative expenditures that are allowable and supported,
- require the school district to conduct timestudies during summer quarters when employees perform Medicaid school-based administrative activities and work with CMS to determine the allowability of \$775,180, and
- ensure that confidential health data are safeguarded pursuant to Federal law and regulations.

## **STATE AGENCY'S COMMENTS**

In its written comments on the draft report, the State agency generally agreed with our recommendations and stated that it was actively engaged in implementing all of them. Before processing any further administrative claims, the State agency said that it would ensure that it has adequate policies, procedures, and internal controls to ensure compliance with all Federal rules for administrative claiming. The State agency also indicated that it would petition CMS to allow the \$775,180 in Federal funds in our fourth recommendation.

The full text of the State agency's comments is included as the Appendix.

# **APPENDIX**



Kenny C. Guinn  
Governor

STATE OF NEVADA  
DEPARTMENT OF HEALTH AND HUMAN SERVICES  
**DIVISION OF HEALTH CARE FINANCING AND POLICY**  
1100 E. William Street, Suite 116  
Carson City, Nevada 89701

MICHAEL J. WILLDEN  
Director

CHARLES DUARTE  
Administrator

Lori A. Ahlstrand  
Regional Inspector General  
Office of Audit Services  
Region IX  
50 United Nations Plaza, Room 17  
San Francisco, CA 94102

OCT - 6 2006

September 29, 2006

Dear Ms. Ahlstrand

The Division of Healthcare Financing and Policy (DHCFP) has reviewed the draft report from the Office of Inspector General (OIG) titled *Review of Nevada's Medicaid School-Based Administrative Expenditures for Calendar years 2003 and 2004 (Report Number A-09-05-00054)* and prepared a response to the findings and recommendations contained therein.

The three areas of concern identified by the OIG include unallowable costs, the absence of a time study conducted to support costs claimed for the summer quarter by Clark County School District (CCSD), and Medicaid beneficiary health data not being adequately safeguarded through release to the school district's vendor MAXIMUS.

On the first matter of unallowable costs, the State has conducted a summary review of the financial findings of the OIG and concurs with the following recommendations presented in the report: **(1) refund \$5,793,236 to the Federal Government, (2) review claims for Medicaid school-based administrative expenditures subsequent to the OIG audit and refund the Federal share of any unallowable costs, (3) strengthen its (State) policies and procedures to ensure that it claims Federal funds only for Medicaid school-based administrative expenditures that are allowable and supported.**

Concerning the matter of costs claimed for summer quarters without the use of supporting time studies, the State recognizes that it did not comply with the guidance in effect as of October 1, 2003 requiring the school district to conduct a time study for the summer period.

In Nevada's Medicaid School-Based Administrative Claiming Guide approved by CMS in February 2002, the State did not require the school district to submit a time study for the summer quarter. As a result, the Clark County School District did not perform a time study for the 2004 summer period. As the OIG is unable to express an opinion on the \$775,180 claimed for that quarter, the State petitions CMS to allow reimbursement for this quarter under the approved 2002 guide.

For subsequent quarters outside the OIG audit period, the State concurs with the recommendation of the OIG to **require the school district to conduct time studies during summer quarters when employees perform Medicaid school-based administrative activities.**

On the last matter of beneficiary health data not being adequately safeguarded, the state concurs with the OIG findings and its recommendation that **the State ensure that confidential health data are safeguarded pursuant to Federal law and regulations.**

To ensure that the above identified concerns are corrected, the State is actively engaged in implementing all of the above recommendations by the OIG. Prior to processing any further administrative claims subsequent to the 2003-2004 audit period, the State will ensure that it has adequate policies, procedures and internal controls in effect to ensure compliance with all Federal rules for administrative claiming. Already in effect are the necessary internal controls to provide enforcement of existing policies to protect patient health information in accordance with HIPAA regulations.

The State is anxious to resume the operation of the Medicaid School Based Administrative Claiming program, and looks forward to a continued collaborative effort between itself and CMS to ensure the integrity and success of this program

Sincerely,



Charles Duarte  
Administrator  
Division of Healthcare Financing and Policy  
State of Nevada

Cc:

Patrick Cates, ASO IV  
George Reves, ASO II  
Alan Archer, Auditor  
Linda Minamoto, CMS Region IX  
Henrietta Sam-Louie, CMS Region IX  
Bill Sampson, Clark Co. School District  
Jason Franklin, Clark C. School District