

**SHELTERED WORKSHOP SERVICES PROVIDED
RESIDENTS OF INTERMEDIATE CARE
FACILITIES FOR THE MENTALLY RETARDED**

National Program Inspection



**OFFICE OF INSPECTOR GENERAL
OFFICE OF ANALYSIS AND INSPECTIONS**

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Office of the Inspector General

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This Report

Entitled "Sheltered Workshop Services Provided Residents of Intermediate Care Facilities for the Mentally Retarded," this inspection was conducted to determine if Medicaid was participating in the costs of subsidized work activities of adult residents of Intermediate Care Facilities for the Mentally Retarded.

The report was prepared by the Regional Inspector General, Office of Analysis and Inspections, Region IX.

Participating in this project were the following people:

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JANUARY 1987

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I. EXECUTIVE SUMMARY

The inspection showed that many States were claiming Federal Financial Participation (FFP) for the costs of subsidized work activities. Of the 47 States with sheltered workshop programs for adult residents of Intermediate Care Facilities for the Mentally Retarded (ICF/MRs), 23 claimed Medicaid reimbursement for the costs of the workshop services. We estimate this resulted in Medicaid overpayments totaling \$27 million during FY 1984. The remaining 24 States did not seek Medicaid reimbursement for the estimated \$68 million in sheltered workshop costs they incurred during FY 1984. We did not make any recommendations for financial adjustment, since this report pertained to a period prior to a clarification by the Department.

The confusion over whether or not to claim FFP for the costs of sheltered workshops can be attributed to a lack of clarity in the Health Care Financing Administration's (HCFA's) instructions defining what is meant by the term "vocational activities." The need for these guidelines is critical since the costs of "vocational activities" provided adult residents of ICF/MRs are specifically excluded from Medicaid reimbursement by 42 CFR 441.13(b). To correct this problem, we recommended HCFA issue guidelines specifically disallowing cost for sheltered workshops.

HCFA concurred with our recommendation and published a policy issuance in the State Medicaid Manual clarifying the definition of vocational training. The instruction excludes payment for most sheltered workshop care and should ensure the problem identified during the inspection does not reoccur.

II. INTRODUCTION

The inspection was conducted because information indicated many States were claiming FFP under the Medicaid program for the costs of sheltered workshop services provided residents of ICF/MRs.

The Medicaid program participates in the costs associated with the care of residents of ICF/MRs, if the residents are receiving active treatment. According to 42 CFR 435.1009, active treatment requires each resident to have an individual written plan of care. The plan must be designed to help the individual function at the greatest physical, intellectual, social or vocational level he can presently or potentially achieve. Services provided under the plan, as defined by 42 CFR 442.401, must be habilitative and aid the intellectual, sensorimotor and emotional development of the resident. It is important to note that habilitative services under this definition would be limited to activities for the development of skills which the individual needs to achieve maximum independence. 42 CFR 441.13(b) further states that payments to ICF/MRs may not include reimbursement for vocational training.

To address our concerns, the review focused on the following objectives:

1. Determine which States have ICF/MR programs that include sheltered workshop services and how these services are funded.
2. Ascertain the extent to which the Medicaid program has participated in the costs of sheltered workshops.
3. Determine if HCFA guidelines covering sheltered workshop services provided ICF/MR residents are adequate.

The inspection was conducted nationwide because of the significant amount of money being directed towards providing vocational opportunities to residents of ICF/MRs. During the period October 1, 1983 through September 30, 1984, we estimated that 47 States spent over \$122 million for sheltered workshop programs. In addition, the complexity of the issues addressed by the inspection warranted pursuing the topic from a national rather than a local perspective.

To accomplish the objectives of the inspection, we first contacted each State Medicaid agency to determine if vocational services were provided residents of ICF/MRs and whether FFP was claimed for the costs of the services. Our initial telephone contacts revealed that there was a total

lack of consistency among States in defining "vocational training" for Medicaid reimbursement purposes. The only service that a significant number of States would agree constituted vocational training was subsidized work provided in a sheltered workshop type environment.

We recontacted each State that had a sheltered workshop program to ascertain the FFP amounts claimed during FY 1984. The data obtained from two States was then verified. On-site visits were also made to several sheltered workshops as well as State and local organizations involved in various phases of the workshop programs. The on-site visits were supplemented by discussions with people concerned with securing and delivering services to the developmentally disabled. We also contacted HCFA to obtain a definition of "vocational training" and its policies and guidelines on the subject.

III. FINDING

Medicaid Participation in Sheltered Workshop Activities

Our discussions with personnel from the 47 States that provide sheltered workshop services to adult residents of ICF/MRs identified 23 that claimed FFP for the costs of these services during FY 1984. The remaining 24 States did not claim FFP because they believed such activities were vocational in nature and the costs, therefore, unallowable for Medicaid reimbursement. In our discussions, we defined a sheltered workshop as a sheltered environment for productive employment that pays its workers training fees based on production or has received an appropriate Wage and Hour Certificate from the Department of Labor. The certificate recognizes the employer/employee relationship of the workshop and allows the payment of subminimum wages to workers. A sheltered workshop would also provide employment support services such as: training required in a job situation to develop skills needed for new tasks and enhanced versatility; counseling at the job site; and assistance in maintaining employment.

Except in rare instances, the sheltered workshop represents the highest vocational level an ICF/MR resident can achieve. The workshop services, therefore, must be considered vocational training rather than habilitative and the costs of the services disallowed for FFP.

Over the last several years, States have changed their treatment emphasis for adult residents from traditional social and living skills development to employment-oriented training. This change appears to have been encouraged by some of the HCFA personnel involved in the certification of ICF/MRs. States also receive requests from various citizens' groups involved with the developmentally disabled to increase the vocational opportunities available to ICF/MR residents as a way to improve the individuals' quality of life. As previously mentioned, 47 States responded to the suggestions by implementing sheltered workshop programs. Those States that recognized that workshop services did not qualify for FFP, arranged for State funding of the programs. We estimate this is costing the 24 States a total of \$68 million a year. The remaining 23 States chose the position that if HCFA suggested they provide sheltered workshop services, Medicaid should participate in the costs of those services. This position was continually reinforced during our conversations with State personnel.

Based on follow-up contacts with each of the 23 States that claimed Medicaid reimbursement for sheltered workshop costs,

we estimate that \$54 million in workshop costs were claimed during FY 1984. This translates into a Medicaid overpayment of \$27 million, assuming an FFP rate of 50 percent. The \$54 million estimate was derived by first determining the ratio of adult sheltered workshop costs to total ICF/MR costs claimed for the eight States that provided our office with estimates of the workshop costs claimed during our review period. The remaining 15 States were either unable or unwilling to furnish this information. That ratio obtained was then applied to the total ICF/MR costs claimed by the 23 States.

The primary cause of the problems identified in our inspection was the lack of specific HCFA guidelines or policy interpretations which provide a precise definition of the term "vocational training." In absence of these guidelines, both the State agencies and HCFA regional offices made independent and frequently inconsistent policy interpretations. As a result, 23 States received FFP for the costs incurred in their workshop programs and 24 States did not.

IV. RECOMMENDATION

We recommend HCFA issue guidelines clarifying the definition of "vocational training" for Medicaid reimbursement purposes to specifically disallow costs of subsidized work activities.

TABLE SUMMARIZING THE DOLLAR
EFFECTS OF THE REPORTED FINDING

<u>State</u>	<u>Estimated Overpayment</u>
A	\$ 765,026
B	505,556
C	1,492,638
D	707,707
E	5,936,043
F	1,493,136
G	857,341
H	821,795
I	567,532
J	1,990,081
K	1,187,260
L	3,168,745
M	2,394,743
N	354,185
O	540,927
P	917,205
Q	709,281
R	394,080
S	165,902
T	310,678
U	530,638
V	100,312
W	<u>1,162,640</u>
TOTAL	<u>\$27,073,451</u>



DEPARTMENT OF HEALTH & HUMAN SERVICES

APPENDIX II
Health Care
Financing Administration

Memorandum

Date **OCT 27 1986**
Henry L. Desmar
William L. Roper, M.D.
From Administrator

Subject **OIG Draft Report - Sheltered Workshop Services Provided Residents of Intermediate Care Facilities for the Mentally Retarded (P-09-86-00048)**

To **The Inspector General
Office of the Secretary**

We have reviewed the draft report that recommends we issue guidelines clarifying the definition of vocational training for Medicaid purposes to disallow specifically the costs of subsidized work activities. In September 1986, we published a policy issuance in the State Medicaid Manual clarifying the definition of vocational training. The instruction excludes payment for most sheltered workshop care, but notes that, in some cases, further review is needed to determine if the care could be covered under Medicaid. Our instruction was developed in concert with a Technical Advisory Group of State Medicaid representatives.

This instruction will enable the OIG and HCFA to conduct audits for purposes of disallowing inappropriate payments. It will also help the States, which have claimed not to know what services are excluded, to know what not to claim as eligible for Federal financial participation.

Thank you for the opportunity to review this draft report.