

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**INAPPROPRIATE CLAIMS FOR
MEDICAID PERSONAL CARE
SERVICES**



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OBJECTIVES

To determine whether Medicaid claims for personal care services (PCS) were inappropriate because (1) attendants' qualifications were undocumented or (2) providers had no record of serving the beneficiaries.

BACKGROUND

Medicaid is a joint Federal and State program that provides medical assistance to low-income and medically needy individuals. At their option, State Medicaid programs may provide PCS in a beneficiary's home or other community-based setting. PCS attendants provide the elderly and people with disabilities with the assistance they need to remain in their homes and communities. Combined State and Federal Medicaid expenditures for PCS totaled \$9.9 billion in 2006, an increase of 20 percent since 2004.

States are required to institute provider safeguards to protect the health, welfare, and safety of Medicaid beneficiaries receiving PCS. One of the ways that States can fulfill this requirement is by establishing PCS attendant qualifications, such as requiring criminal background checks and establishing minimum age, health status, education, and training requirements. A 2006 Office of Inspector General report found that PCS attendant qualifications frequently differed among the programs within a State.¹

We selected a stratified random sample of 450 Medicaid claims for PCS provided from September 1, 2006, through August 31, 2007, in 10 States. Eight of the ten States required that attendants' qualifications be documented. For each sampled claim, we requested documentation to determine whether the attendant(s) who provided the PCS met all required qualifications. To produce a conservative estimate of error, we accepted a wide variety of documentation and considered attendants qualified if they met at least one component of a qualification.

¹ *States' Requirements for Medicaid-Funded Personal Care Service Attendants*, OEI-07-05-00250, revised December 2006.

FINDINGS

Attendant qualifications were undocumented for 18 percent of Medicaid PCS claims, resulting in \$724 million in inappropriate payments.

Eighteen percent of paid PCS claims (6.5 million) in our universe were inappropriate because attendants' qualifications were undocumented. From September 1, 2006, through August 31, 2007, Medicaid paid approximately \$724 million for these claims. The qualifications most often undocumented were background checks, age, and education.

For 2 percent of Medicaid PCS claims, respondents had no record of serving the beneficiaries.

Respondents for 2 percent (552,578) of paid Medicaid PCS claims in our universe reported that they had no record of ever providing services to the beneficiaries named in the claims data. From September 1, 2006, through August 31, 2007, Medicaid paid approximately \$63 million for these inappropriate claims.

RECOMMENDATIONS

Medicaid inappropriately paid \$724 million for 18 percent of the PCS claims in our universe because the attendants' qualifications were undocumented. Further, Medicaid paid an additional 2 percent of Medicaid PCS claims in our universe inappropriately because the respondents had no record of providing services to the beneficiaries. In light of these findings, the Centers for Medicare & Medicaid Services (CMS) should:

Ensure that Medicaid claims for PCS provided by attendants with undocumented qualifications are not paid. CMS could work with States to ensure that agencies and attendants are aware of attendant qualifications and documentation requirements, and to ensure that State Medicaid programs have a method to verify that qualifications are met.

Take action regarding the inappropriate claims identified in our review.

We will forward information regarding the inappropriate claims we identified to CMS in a separate memorandum. CMS may want to work with States to recover the Medicaid payments for PCS provided by unqualified attendants and/or attendants for whom we received no documentation to support that they met qualifications in States that require such documentation. CMS may want to pay particular attention to

the inappropriate claims for which respondents said they had no record of ever serving the beneficiaries named in the claims data.

AGENCY COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE

CMS concurred with both recommendations. In response to the first, CMS described plans to work with States to ensure that Medicaid claims for PCS provided by attendants who do not meet States' qualifications are not paid. CMS indicated it will work through the State plan amendment and waiver review process, and other educational and communication opportunities, to address this recommendation. In response to the second recommendation, CMS stated it will review the information regarding the inappropriate claims we identified and take action based on that review. We made technical corrections to the report based on CMS's comments.



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OBJECTIVES

To determine whether Medicaid claims for personal care services (PCS) were inappropriate because (1) attendants' qualifications were undocumented or (2) providers had no record of serving the beneficiaries.

BACKGROUND

Medicaid is a joint Federal and State program that provides medical assistance to low-income and medically needy individuals. States establish Medicaid eligibility requirements, benefits packages, and payment rates under standards set by the Centers for Medicare & Medicaid Services (CMS).

State Medicaid programs may provide PCS in a beneficiary's home or other community-based setting.² PCS attendants provide elderly beneficiaries and beneficiaries with disabilities with the assistance they need to remain in their homes and communities. These attendants assist beneficiaries with nonmedical activities such as bathing, dressing, light housework, medication and money management, meal preparation, and transportation.³ States can provide Medicaid PCS through their State plans,⁴ through one or more waivers,⁵ or both. Combined State and Federal Medicaid expenditures for PCS totaled \$9.9 billion in 2006, an increase of 20 percent since 2004.⁶ Furthermore, the Congressional Budget Office (CBO) projects a \$2.6 billion increase in Federal expenditures for Medicaid PCS by 2015.

² Social Security Act, § 1905(a)(24), 42 U.S.C. § 1396d(a)(24); Social Security Act, § 1915(c)(1), 42 U.S.C. § 1396n(c)(1); State Medicaid Manual, Pub. No. 45, § 4480(A).

³ PCS do not include skilled nursing or home health care, physical therapy, occupational therapy, speech and language therapy, medical social services, or the provision of durable medical equipment or other medical supplies and services. *State Medicaid Manual*, Pub. No. 45, § 4480(C).

⁴ Social Security Act, § 1905(a)(24), 42 U.S.C. § 1396d(a)(24); Social Security Act, § 1915(i), 42 U.S.C. § 1396n(i); Social Security Act, § 1905(a)(7), 42 U.S.C. § 1396d(a)(7).

⁵ Waivers allow the States more flexibility in the way they administer their Medicaid programs and can be requested under sections 1115, 1915(c) and 1915(i) of the Social Security Act. Social Security Act, § 1115, 42 U.S.C. § 1315; Social Security Act, § 1915(c), 42 U.S.C. § 1396n(c).

⁶ Form CMS-64 summary data for 2004 and 2006. These were the most recent CMS-64 data available at the time of our review. Accessed at <http://www.cms.hhs.gov/> on February 24, 2010.

PCS Attendant Qualifications

States are required to institute safeguards to protect the health, welfare, and safety of Medicaid beneficiaries receiving PCS.⁷ One of the ways States can fulfill this requirement is by establishing qualifications for PCS attendants.⁸

Each State has one State plan; States can have multiple waivers of different types.⁹ Attendants who provide care to beneficiaries through State plans and waivers must meet the qualifications specified in the State plan, unless they are stated differently in a waiver.¹⁰ The State Medicaid Manual gives examples of attendant qualifications, such as passing criminal background checks and minimum levels of age, health status, education, and training.¹¹

Attendants providing care to beneficiaries who receive PCS through 1915(c) waivers must meet the qualifications established by those waivers. The State Medicaid Manual requires that States providing PCS through 1915(c) waivers establish adequate qualifications to ensure that attendants rendering services meet applicable State licensing and certification requirements, but does not provide specific examples of qualifications for 1915(c) waivers.¹²

Attendant qualifications can have multiple components. For example, to be qualified, attendants may have to meet minimum health qualifications, which could include passing a physical examination and a tuberculosis test. Table 1 illustrates the types and examples of attendant qualifications States have established.

⁷ Social Security Act, § 1905(a)(24), 42 U.S.C. § 1396d(a)(24); Social Security Act, § 1915(i)(1)(H), 42 U.S.C. § 1396n(i)(1)(H); Social Security Act, § 1915(c)(2)(A), 42 U.S.C. § 1396n(c)(2)(A).

⁸ Other examples of ways that States ensure the health, welfare, and safety of Medicaid beneficiaries receiving PCS include establishing requirements for reviews of beneficiaries' plans of care and supervision of services provided.

⁹ The Social Security Act authorizes multiple waiver authorities to allow States flexibility in operating Medicaid programs. For example, Section 1115 of the Social Security Act can be used to approve projects that test policy innovations that would otherwise violate Medicaid requirements; section 1915(c) waivers can be used to allow long-term-care services to be delivered in homes and in community-based settings. States choose which waivers they wish to apply for; some States have no waivers.

¹⁰ Social Security Act, § 1115(a)(1), 42 USC § 1315(a)(1).

¹¹ *State Medicaid Manual*, Pub. No. 45, § 4480(E).

¹² *State Medicaid Manual*, Pub. No. 45, § 4442.4.

Table 1: Examples of PCS Attendant Qualifications

Type of Qualification	Examples of Qualifications
Training	Initial training: Attendant must complete a standardized training course, including subjects such as universal precautions, resident rights, safety and emergency procedures, record-keeping, nutrition, and assisting clients with bathing and grooming.
	Continuing training: Attendant must maintain cardiopulmonary resuscitation and first aid certifications, and complete refresher training on subjects similar to initial training (typically annually).
Background check	Attendant must pass a State or national criminal background check; attendant must provide personal or professional references; attendant must be absent from State abuse and neglect registries or State and Federal exclusion lists.
Age	Attendant must meet a minimum age requirement (typically 18) on the date of service.
Health	Attendant must be free of infectious or contagious disease; attendant must pass a physical exam by a doctor; attendant must be physically able to perform duties.
Literacy or education	Literacy: Attendant must be able read and write, follow instructions and maintain records; attendant must be able to communicate with supervisor and patient.
	Education: Attendant must have completed a minimum level of education (typically a high school diploma or General Educational Development (GED) certificate).
Other	Transportation: If duties include driving the beneficiary to errands or appointments, attendant must have a valid driver's license and current automobile insurance; attendant must pass a motor vehicle records check.
	Employment status: Attendant must complete immigration forms and employment agreement.
	Performance reviews: Attendant must pass an annual performance review.

Source: Office of Inspector General (OIG) analysis of State PCS attendant qualifications, 2010.

State Documentation Requirements

While there were no Federal requirements for documenting PCS attendant qualifications, 8 of the 10 selected States required PCS providers to maintain documentation showing that the attendant qualifications were met. In these States, claims for services provided by attendants whose qualifications were undocumented were inappropriate. Some of the eight states had requirements for maintenance of documentation in personnel files; others required maintenance of documentation as part of provider certification processes. The remaining two States did not have documentation requirements.

Related Reports

OIG has issued six reports on PCS services since 2006. A 2006 OIG report found that, unlike qualifications for similar direct-care professions such as certified nurse aides, PCS attendant qualifications frequently differed among the programs within a State.¹³ The other five reports identified inappropriate and/or vulnerable payments for PCS. One report identified over \$275 million in improper PCS payments over 2 years because of noncompliance with requirements for exams by medical professionals, for nursing assessments and supervision, and for physicians' orders.¹⁴ Another report identified Medicaid payments of nearly \$500,000 in five States over 3 months for PCS billed during periods when beneficiaries were institutionalized and an additional \$11 million in Medicaid payments over 3 months vulnerable to payment error because beneficiaries may have been institutionalized when the PCS were billed.¹⁵ A related report found that four States paid Medicaid PCS claims billed in excess of 24 hours per day, and that some States' billing practices created vulnerabilities to inappropriate payments for PCS.¹⁶ Finally, two reports identified approximately \$500,000 and \$610,000, respectively, over 2 years in improper payments for PCS provided while beneficiaries were institutionalized or for PCS services that were either insufficiently documented or unauthorized.^{17,}

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¹³ *States' Requirements for Medicaid-Funded Personal Care Service Attendants*, OEI-07-05-00250, revised December 2006. This report found that States had established 301 sets of requirements nationwide, and that wide variations existed within the six most common types of qualifications. For example, a background check requirement in one program could include conducting a national criminal background check, checking abuse and neglect registries, and/or checking Federal or State exclusion lists; in another program, the background check requirement could include checking only references.

¹⁴ *Review of Medicaid Personal Care Services Claims Made by Providers in New York City*, A-02-07-01054, June 2009.

¹⁵ *Payments Made in Error for Personal Care Services During Institutional Stays*, OEI-07-06-00620, August 2008. Three of the States reviewed used billing practices that made it impossible to determine exactly which days PCS were provided. A single claim might bill all PCS provided to a beneficiary in an entire month. If the beneficiary also had an institutional stay during that same month, we could not determine whether PCS were provided during the institutional stay.

¹⁶ *Medicaid-Funded Personal Care Services in Excess of 24 Hours per Day*, OEI-07-06-00621, October 2008.

¹⁷ *Review of Personal Care Services Claimed by The Center for Living and Working, Inc.*, A-01-06-00011, October 2007.

¹⁸ *Partnership Review of Medicaid Claims Processed by Cerebral Palsy and Stavros for Personal Care Attendant Services Provided to Beneficiaries During Inpatient Stays*, A-01-08-00001, November 2008.

The Government Accountability Office has issued two reports on issues related to PCS since 1996. The first found that slightly over one-quarter of States require criminal background checks on some types of home-care workers (including attendants), though these checks are generally limited to a State's own criminal records.¹⁹ The second report concluded that Federal oversight of 1915(c) waivers, through which States can provide PCS, should be strengthened.²⁰

METHODOLOGY

Scope

We reviewed Medicaid claims for PCS in 10 selected States: California, Florida, Georgia, Illinois, Iowa, Nebraska, New York, Ohio, Tennessee, and West Virginia. We selected these 10 States because they represented 41 percent of national Medicaid spending on home health and PCS in 2006; California, Iowa, and New York spent more on home health and PCS than any other type of long-term care in 2006.²¹

The 10 selected States provided PCS through 4 State plans and 46 waivers. Hereinafter we will refer collectively to the 50 State plans and waivers as programs. We included claims for PCS provided through 45 of the 50 programs in our review. We excluded five programs that included PCS as part of a capitated or daily rate because specific payments for PCS could not be identified. Each of the 10 States had from 1 to 8 programs included in our review.

We included all Medicaid PCS claims paid for services provided through the 45 programs from September 1, 2006, through August 31, 2007. This was the most recent 12-month period for which claims data were available at the start of our data collection.

¹⁹ *Long Term Care: Some States Apply Criminal Background Checks to Home Care Workers*, GAO/PEMD-96-5, September 1996. Accessed at <http://www.gao.gov/archive/> on June 17, 2008.

²⁰ *Long Term Care: Federal Oversight of Growing Medicaid Home and Community-Based Services Waivers Should be Strengthened*, GAO-03-576, June 2003. Accessed at <http://www.gao.gov/archive/> on June 17, 2008.

²¹ The Henry J. Kaiser Family Foundation, *Distribution of Spending on Medicaid Long-Term Care, Fiscal Year 2006*. Accessed at <http://www.statehealthfacts.org/> on June 10, 2008. OIG analysis of expenditure information available from StateHealthFacts shows that three of the selected States spent more on home health and PCS than any other type of long-term care. StateHealthFacts does not report information on PCS expenditures alone.

Selection of Sample Claims

From each of the 10 selected States, we obtained Medicaid Management Information System paid claims data for PCS provided from September 1, 2006, through August 31, 2007, for the 45 programs included in our review. We also obtained Medicaid eligibility data for the beneficiaries who received PCS during this period. We used this information to identify the program through which each beneficiary received PCS.

To create a universe of claims for the 10 selected States, we combined into one file all of the PCS claims data that met our study parameters for the 12-month review period. The combined Federal and State expenditures for these claims totaled \$4.3 billion. We created three strata based on the payment amount for each claim: \$0.01 to \$115, \$115.01 to \$440, and greater than \$440.²² We randomly selected 450 claims distributed among the strata as shown in Table 2. These stratum ranges and sizes were determined to produce the best statistical precision. We projected our findings to the 10-State universe of PCS claims that met our study parameters using the sample weights from the stratified sample selection. Statistical projections cannot be made to individual States from the sample we selected.

Appendix A presents the point estimates and confidence intervals for all statistics.

Table 2: Sample Stratification

Stratum	Payment Amounts	Claims in Universe	Claims in Sample
1	\$0.01–\$115	24,386,563	140
2	\$115.01–\$440	12,211,854	200
3	Greater than \$440	770,749	110
Total	N/A	37,369,166	450

Source: OIG analysis of Medicaid claims data, 2010.

Identification of Attendant Qualifications and Documentation Requirements

We consulted with Medicaid officials in the 10 selected States to determine the qualifications that attendants were required to meet

²² Previous OIG work with PCS claims data found substantial variability in the amounts paid for individual claims. This variability is due to differences in State payment rates, State billing policies, and beneficiaries' differing levels of need. Stratifying the sample helped ensure the precision of our estimate of inappropriate payments.

during the period covered by our review. See Appendix B for details on the attendant qualifications that States had established for their programs.

We also requested that each selected State provide copies of its policies and/or regulations that require documentation of attendant qualifications to be maintained. Eight States required documentation of attendant qualifications to be maintained; two States did not. Some of the eight States required specific documents to be maintained, such as training certificates or background check logs, while other States did not specify the required documents.

Collection and Analysis of Documentation To Support Attendant Qualifications

For each sampled claim, we asked State Medicaid agency officials to identify the agency or individual we should contact to request documentation to support PCS attendants' qualifications. Agencies and individuals that we contacted are hereinafter referred to as respondents.

We made at least three attempts to contact each of the respondents. The first and second attempts were made through regular mail or by FAX; the third and final attempt was made through certified U.S. mail or Federal Express. We established contact with respondents for 424 of the sampled claims, a response rate of 94 percent. We were unable to establish contact with respondents for the remaining 26 claims; therefore, they are considered nonrespondents. A nonresponse analysis found no evidence of bias based on stratum or State location.

For each sampled claim, we requested documentation to support that the attendant(s) who provided the PCS met all attendant qualifications. In response to our request, respondents provided copies of a variety of documents, including:

- results of background or criminal history checks, including checks of State abuse registries and/or OIG's list of Excluded Individuals and Entities;²³
- training certificates or logs;
- driver's licenses or birth certificates;
- immunization or other health records; and
- high school diplomas, GED certificates, or other verification of education and/or literacy.

Because State documentation requirements varied, we accepted a wide variety of documentation to support that attendants were qualified to provide Medicaid PCS. Because we did not seek to determine whether the documentation provided would have been deemed sufficient by a particular State, we accepted documentation supporting any component of a qualification as complete documentation for meeting that qualification. For example, some programs require that attendants complete a minimum number of course hours focused on specific content as part of their training qualification. If we received documentation supporting the required course hours but the documentation did not specify the course content, we considered the attendant to have met the training qualification. As a result, our estimates are conservative. See Appendix C for details on the documentation we received and accepted for different qualification types.

Inappropriate Claims for Medicaid PCS

We reviewed the documentation of attendant qualifications submitted for all claims. For claims from the eight States that required documentation of attendant qualifications to be maintained, we determined that a claim was inappropriate if we established contact with the respondent but received no documentation to support that the attendant met one or more of the qualifications. The entire claim was deemed inappropriate if any qualification for any attendant involved in it was undocumented. For claims from the two States without documentation requirements, we considered all claims appropriate because the respondent was not required to maintain documentation of attendant qualifications.

²³ The Social Security Act gives OIG the authority to exclude individuals and entities who have engaged in fraud or abuse from participation in Medicare, Medicaid, and other Federal health care programs. OIG maintains a list of currently excluded individuals and entities, available online at http://oig.hhs.gov/fraud/exclusions/exclusions_list.asp.

I N T R O D U C T I O N

Some respondents replied to our request for documentation by stating that they had no record of serving the specified beneficiaries. We considered the claim inappropriate if respondents indicated that they had no record of the service or beneficiary.

We analyzed the characteristics of the inappropriate claims, including the specific qualifications that were undocumented and the types of programs the claims were paid through, but did not identify any patterns in these characteristics.

Standards

This study was conducted in accordance with the *Quality Standards for Inspections* approved by the Council of the Inspectors General on Integrity and Efficiency.

► FINDINGS

Attendant qualifications were undocumented for 18 percent of Medicaid PCS claims, resulting in \$724 million in inappropriate payments

Eighteen percent of paid Medicaid PCS claims (6.5 million) in our universe were inappropriate because attendants' qualifications were undocumented. From

September 1, 2006, through August 31, 2007, Medicaid paid approximately \$724 million for these claims.²⁴ For 43 percent of these claims, we received some documentation regarding the attendants—usually identifying information—but received no documentation to support that they met any of the States' qualifications. For the remaining 57 percent of these claims, we received documentation to support that attendants met some, but not all, of the qualifications. The payments for both groups of claims were inappropriate because of the lack of documentation for one or more attendant qualifications. Two of the selected States did not have documentation requirements, so we considered all claims in those States to be appropriate.

Background checks were the most frequently undocumented qualification

Respondents failed to provide documentation of attendant background checks for 5 percent of the claims (1.7 million). In the absence of documentation to support that a background check was conducted, we could not determine whether an attendant's background should have disqualified him/her from providing Medicaid PCS. Similarly, respondents did not provide documentation that State abuse and neglect registries had been checked. Appearing on those registries would usually disqualify attendants from providing services.

Many respondents also failed to provide documentation to support that attendants met age (1.2 million claims or 3.5 percent) or education (451,480 claims or 1.3 percent) qualifications. Table 3 lists the types of qualifications for which respondents did not provide documentation.

²⁴ The percentages, numbers, and dollar amounts associated with inappropriately paid claims are statistical projections to the universe of claims based on the sample claims reviewed.

F I N D I N G S

Table 3: Undocumented Attendant Qualifications

Qualification Lacking Documentation	Total Claims	Percentage of Claims
Background	1,779,852	5.0%
Age	1,237,304	3.5%
Literacy/education	451,480	1.3%
Other	357,368	1.0%
Health	174,190	0.5%
Training	7,007	0.02%

Source: OIG analysis of Medicaid claims data, 2009.

Respondents failed to provide documentation for multiple qualifications for nearly 1 percent of paid PCS claims (303,315). For example, one program in our sample required attendants to complete initial and continuing training, have a high school diploma or GED, and pass a statewide criminal background check. However, for one of the claims we sampled from this program, we only received documentation of the attendant’s initial and continuing training. We received no documentation of the attendant’s education or background check.

For 2 percent of Medicaid PCS claims, respondents had no record of serving the beneficiaries

Respondents for 2 percent of paid Medicaid PCS claims in our universe (552,578) reported they had no record of ever providing

services to the beneficiaries named in the claims data. From September 1, 2006, through August 31, 2007, Medicaid paid approximately \$63 million for these inappropriate claims.²⁵

²⁵ The amount inappropriately paid is a statistical projection to the universe of claims based on the sample claims reviewed. The 95-percent confidence interval for this point estimate is \$11,450,290–\$113,789,851.

► R E C O M M E N D A T I O N S

Medicaid programs inappropriately paid \$724 million for 18 percent of PCS claims in our universe because attendants' qualifications were undocumented. Medicaid inappropriately paid another 2 percent of claims in our universe because the respondents had no record of providing services to the beneficiaries. Prior OIG reports related to Medicaid PCS also identified inappropriately paid claims and/or claims vulnerable to payment errors.

Medicaid expenditures for PCS increased 20 percent between 2004 and 2006. Furthermore, CBO estimates a \$2.6 billion increase in Federal expenditures for Medicaid PCS by 2015. Given the continuing increase in PCS utilization and expenditures, the integrity of the providers of and payments for these services is vital to ensuring the health and welfare of Medicaid beneficiaries.

In light of these findings, CMS should:

Ensure that Medicaid claims for PCS provided by attendants with undocumented qualifications are not paid

CMS could work with States to ensure that:

- State Medicaid directors and staff are aware of the findings of this and previous reports on PCS so they can target their program integrity efforts,
- agencies and attendants providing PCS are aware of attendant qualifications and documentation requirements, and
- State Medicaid programs have a method to verify that attendant qualifications are met.

Take action regarding the inappropriate claims identified in our review

We will forward information regarding the inappropriate claims we identified to CMS in a separate memorandum. CMS may want to work with States to recover the Medicaid payments for PCS provided by unqualified attendants and/or attendants for whom we received no documentation to support that they met qualifications in States that require such documentation. CMS may want to pay particular attention to the inappropriate claims for which respondents said they had no record of serving the beneficiaries named in the claims data.

AGENCY COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE

CMS concurred with both recommendations. In response to the first, CMS described plans to work with States to ensure that Medicaid claims for PCS provided by attendants who do not meet States' qualifications are not paid. CMS indicated it will work through the State plan amendment and waiver review process, and other educational and communication opportunities, to address this recommendation. Based on previous OIG reports, CMS has included new questions related to PCS in the Comprehensive State Program Integrity Reviews. CMS noted that it continues to work with State Medicaid programs to determine whether there are ways that PCS attendant qualifications could be addressed, such as collaborative projects or claims audits. CMS also indicated it will evaluate whether the development of best practice guidelines would assist State Medicaid programs in establishing documentation requirements for personal care attendants. In response to the second recommendation, CMS stated it will review the information regarding the inappropriate claims we identified, and take appropriate action based on that review. For the full text of CMS's comments, see Appendix D. We made technical corrections to the report based on CMS's comments.

➤ A P P E N D I X ~ A

Table A-1: Point Estimates and Confidence Intervals

Statistic Description	Sample Size	Point Estimate	95-Percent Confidence Interval
Claims With Undocumented Attendant Qualifications			
Percentage of inappropriately paid claims	424	18.4	14.2–23.4
Number of inappropriately paid claims	424	6,520,805	5,030,197–8,339,223
Total payments for inappropriately paid claims	424	\$724,066,379	\$565,824,009–\$882,308,749
Among inappropriately paid claims, percentage with no documentation of any attendant qualifications	91	43.2	30.3–57.0
Among inappropriately paid claims, percentage with documentation for some, but not all, attendant qualifications	91	56.8	43.0–70.0
Percentage of claims with undocumented background check qualification	424	5.0	3.0–8.3
Number of claims with undocumented background check qualification	424	1,779,852	1,060,891–2,946,507
Percentage of claims with undocumented age qualification	424	3.5	1.8–6.6
Number of claims with undocumented age qualification	424	1,237,304	639,993–2,356,329
Percentage of claims with undocumented education qualification	424	1.3	0.4–3.8
Number of claims with undocumented education qualification	424	451,480	148,973–1,346,046

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A P P E N D I X A

Table A-1: Point Estimates and Confidence Intervals (Continued)

Statistic Description	Sample Size	Point Estimate	95-Percent Confidence Interval
Claims With Undocumented Attendant Qualifications (continued)			
Percentage of claims with other undocumented qualifications	424	1.0	0.3–3.0
Number of claims with other undocumented qualifications	424	357,368	116,200–1,084,493
Percentage of claims with undocumented health qualification	424	0.5	0.07–3.4
Number of claims with undocumented health qualification	424	174,190	24,281–1,219,412.3
Percentage of claims with undocumented training qualification	424	0.02	0.002–0.1
Number of claims with undocumented training qualification	424	7,007	982–49,961
Percentage of claims that had more than one undocumented qualification	424	0.9	0.2–3.0
Number of claims that had more than one undocumented qualification	424	303,315	85,663–1,058,277
Claims With Undocumented Services			
Percentage of claims with no documentation to support that services were provided	424	1.5	0.6–4.0
Number of claims with no documentation to support that services were provided	424	552,578	212,459–1,416,424
Total payments for claims with no documentation to support that services were provided	424	\$62,620,070	\$11,450,290–\$113,789,851

Source: Office of Inspector General analysis of Medicaid claims data and attendant qualification documentation, 2010.

➤ A P P E N D I X ~ B

Table B-1: Types of Attendant Qualifications and Documentation Requirements Established by States

In the table below, the ● symbol represents an attendant qualification with a corresponding documentation requirement. The ○ symbol represents an attendant qualification with no corresponding documentation requirement.

State	Program	Training Requirement		Age	Education	Health	Background	Other	Total
		Hours	Content						
CA	Program 1			○	○	○	○		4
	Program 2			○					1
	Program 3			○					1
	Program 4			○					1
FL	Program 1	●	●			●	●		3
	Program 2	●	●	●	●	●	●		5
		●	●	●	●	●	●		5
	Program 3	●	●	●	●	●	●		5
		●	●	●	●	●	●		5
	Program 4	●	●	●	●	●	●		5
		●	●	●	●	●			4
	Program 5	●	●	●	●	●	●		5
		●	●	●	●	●	●		5
	Program 6	●	●	●	●	●	●	●	5
		●	●	●	●	●	●	●	5
	Program 7		●	●	●			●	4
	Program 8							●	1
	Program 9	●	●	●	●	●	●	●	5
●		●	●	●		●	●	5	
GA	Program 1		●	●		●	●		4
	Program 2	●	●			●	●		3
	Program 3		●			●	●		3
	Program 4		●			●	●		3

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A P P E N D I X ~ B

Table B-1: Types of Attendant Qualifications Established by States (continued)

State	Program	Training Requirement		Age	Education	Health	Background	Other	Total
		Hours	Content						
IA	Program 1			○			○	○	3
				○				○	2
	Program 2			○			○	○	3
				○				○	2
	Program 3			○			○	○	3
				○				○	2
	Program 4			○			○	○	3
				○				○	2
	Program 5			○			○	○	3
				○				○	2
	Program 6			○			○	○	3
				○				○	2
IL	Program 1		•		•	•	•		4
				•		•	•	•	4
	Program 2		•		•	•	•		4
				•		•	•	•	4
	Program 3		•		•		•		3
				•		•	•	•	4
	Program 4	•	•				•		2
				•					1
	Program 5	•	•		•		•		3
	Program 6	•	•				•		2
				•					1
	NE	Program 1			•		•	•	

continued on next page

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Table B-1: Types of Attendant Qualifications Established by States (continued)

State	Program	Training Requirement		Age	Education	Health	Background	Other	Total
		Hours	Content						
NY	Program 1	•	•		•	•	•	•	5
					•	•	•	•	4
	Program 2	•	•		•	•	•	•	5
OH	Program 1		•	•			•		3
	Program 2			•			•		2
				•	•			•	3
	Program 3	•	•		•		•		3
	Program 4	•	•	•			•	•	4
		•	•	•			•	•	4
	Program 5			•			•		2
				•	•		•		3
	Program 6	•	•	•			•	•	4
		•	•	•			•	•	4
TN	Program 1	•	•	•	•	•	•	•	6
	Program 2	•	•	•	•	•	•	•	6
	Program 3	•	•	•		•	•	•	5
	Program 4	•	•		•	•	•		4
	Program 5	•	•		•	•	•		4
	Program 6	•	•	•	•	•	•	•	6
WV	Program 1	•	•				•		2
	Program 2		•				•		2
Total		31	42	49	26	33	56	26	263

Source: Office of Inspector General analysis of State qualification information, 2010.

**Details of Documentation Received and Office of Inspector General Analysis
Criteria To Substantiate Attendant Qualifications**

To produce a conservative estimate of error, the Office of Inspector General (OIG) accepted a wide variety of documentation as proof that attendants were qualified. Documentation submitted varied among States, programs, and respondents. In general, we required documentation to indicate the attendant's name and the date of the document. The types of documents we received, and any specific information we required to consider the attendant qualified, are described below.

Training. The documentation we received regarding training qualifications included:

- certificates for specific training courses,
- in-service training logs,
- cardiopulmonary resuscitation and first aid certification cards,
- training curriculums and syllabuses, and
- completed examinations.

In addition to the attendant's name and the date of the training, we required that the documents indicate that the attendant had completed either at least some of the required hours of training, or at least some of the required content.

Background checks. The documentation we received regarding background check qualifications included:

- the results of background checks done by State and county agencies, the Federal Bureau of Investigation, and private agencies;
- personal and professional references, including letters of reference, reference forms, and employment applications requiring contact information for references;
- employment applications including employment history;
- results of checks of various State registries, including child and adult abuse, nurse aide, and sex offender registries;
- credit reports;
- checks of OIG's List of Excluded Individuals and Entities; and

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- personal affidavits stating that the attendant had no criminal history.

In a few cases in which employment history or professional references were required, the documentation noted that the attendant had never worked outside the home before and had no history or references. Additionally, for some programs in which a background check was required, the attendant was hired by the agency before the background check was completed. We accepted the documentation explaining the circumstances in both of these situations as sufficient.

For criminal background checks, we required that the document indicate the scope of the check (local, State, or Federal). We did not require evidence that personal or professional references had been verified to consider the attendant qualified unless the qualification specified verification of the references; we only required that the reference information (usually the reference's name and contact information) be present.

Age. The documentation we received regarding age qualifications included:

- driver's licenses,
- birth certificates, and
- voter registration cards.

To consider an attendant qualified, age documentation had to be an official government document showing the attendant's date of birth. In some cases, when no other document was provided for the age qualification, we were able to verify the attendant's age using documentation provided for other qualifications, such as motor vehicle records checks or background check documents.

Health. The documentation we received regarding health qualifications included:

- tuberculosis tests and chest x-ray reports,
- physical exams and health assessments,
- drug screens,
- laboratory tests to prove immunizations,
- immunization records, and
- letters or notes from physicians.

In some cases, the respondents explained that they required attendants to complete yearly health assessments and that they keep only the current year on file. Therefore they were unable to provide us with the health assessment for the calendar year of the sampled claim. As long as documentation of the current health assessment was provided, we considered these attendants to be qualified.

Literacy or Education. The documentation we received regarding education qualifications included:

- high school diplomas,
- General Educational Development certificates, and
- literacy tests.

Nine of the programs represented in our sample of claims required that attendants be able to read and write and communicate with the beneficiary and supervisors. Often the documentation for the claims sampled from these programs was not specific to education or literacy. Lacking other materials, we accepted any other document that showed that the attendant was able to read and write, such as the attendant's employment application, a written affidavit on behalf of the individual or agency, and any written documentation completed by the attendant.

Other. Some of the programs from which we sampled claims included qualifications that did not fit in any other category. These included:

- requiring attendants to have a valid driver's license and current automobile insurance, or to pass a motor vehicle records check if their duties included transporting the beneficiary;
- requiring the attendant to pass a periodic performance evaluation; and
- requiring the attendant to complete employment status documentation (such as employment eligibility verification forms) or an employment agreement (such as a contract outlining duties and expectations of the attendant and beneficiary).

The documentation we received regarding other qualifications included copies of the specified licenses, insurance cards, record checks, performance evaluations, and employment forms.

Agency Comments



DEPARTMENT OF HEALTH & HUMAN SERVICES

Centers for Medicare & Medicaid Services

Administrator
Washington, DC 20201

DATE: OCT 20 2010

TO: Daniel R. Levinson
Inspector General

FROM: Donald Berwick, M.D. */S/*
Administrator

SUBJECT: Office of Inspector General (OIG) Draft Report: "Inappropriate Claims for Medicaid Personal Care Services" (OEI-07-08-00430)

The Centers for Medicare & Medicaid Services (CMS) appreciate the opportunity to comment on this draft report. In this draft report, the OIG determines whether Medicaid claims for personal care services (PCS) were inappropriate because--(1) attendants' qualifications were undocumented and therefore it was not known whether attendants were qualified; or (2) providers had no records of serving beneficiaries.

PCS are furnished to beneficiaries in their home and other community-based settings. The provision of PCS by PCS attendants allows elders and persons with disabilities to remain in their own homes and communities. It is estimated that at least 36 States offer PCS as an optional service in their State Medicaid plans. Many States also offer PCS in numerous waiver programs. PCS can comprise myriad services such as assistance with eating, bathing, dressing, light housework, meal preparation, money management, supervision and cueing. Many States have set requirements for attendant qualifications in order to ensure the health, welfare and safety of beneficiaries and to meet Medicaid requirements at 42 C.F.R § 440.167(A)(2) that PCS are furnished "by An individual who is qualified to provide such services. . . ." These qualifications, as defined by States, range from age and education requirements, to background checks, to training requirements. To ensure program integrity, States are also required to pay only for PCS actually rendered to beneficiaries.

The OIG report notes that not all States maintain accurate documentation of attendant qualifications so States do not know whether all attendants are meeting their qualification requirements. The report also notes that not all States or providers have records of providing services to beneficiaries for whom there were Medicaid claims. We acknowledge and appreciate the OIG's efforts in undertaking this study and believe the findings will be helpful as we implement the OIG's recommendations.

OIG Recommendations

The OIG recommends that CMS take the following steps:

- 1. Ensure that Medicaid claims for PCS provided by attendants with undocumented qualifications are not paid.**

CMS could accomplish this by working with States to ensure that—

Agency Comments (continued)

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- State Medicaid directors and staff are aware of the findings of this and previous reports on PCS so they can target their program integrity efforts;
- Agencies and attendants providing PCS are aware of attendant qualifications and documentation requirements; and
- State Medicaid programs have a method to verify that attendant qualifications are met.

2. Take appropriate action regarding the inappropriate claims identified in our review.

CMS may want to work with States to recover the Medicaid payments for PCS provided by unqualified attendants and/or attendants for whom we received no documentation to support that they met qualifications in States that require such documentation. CMS may want to pay particular attention to the inappropriate claims for which respondents said they had no record of serving the beneficiaries named in the claims data.

CMS Response

We concur with both of the OIG's recommendations. In response to OIG's first recommendation, CMS will work with States through the State plan amendment and waiver review process, and through educational and other communication opportunities, to ensure that Medicaid claims for PCS provided by attendants who do not meet the States' qualifications requirements are not paid.

Based on findings from previous OIG reports related to PCS, CMS has incorporated new questions related to PCS into the Master Review Guide for Comprehensive State Program Integrity reviews. In addition, CMS continues to work with State Medicaid programs to determine whether there are collaborative projects CMS could undertake with them to address this issue, or ways in which CMS may be able to work with them in auditing PCS claims for this issue. CMS will also evaluate whether there is a need to develop best practice guidelines that would assist State Medicaid programs in establishing documentation requirements for personal care attendants' qualifications.

In response to OIG's second recommendation, CMS will review the individual State information when provided by the OIG and will take any appropriate action based upon our review.

We appreciate the OIG's work on this report and look forward to continuing to work with the OIG on this and other issues.



A C K N O W L E D G M E N T S

This report was prepared under the direction of Brian T. Pattison, Regional Inspector General for Evaluation and Inspections in the Kansas City regional office, and Deborah K. Walden, Deputy Regional Inspector General.

Michala Walker served as the lead analyst for this study. Other principal Office of Evaluation and Inspections staff from the Kansas City regional office who contributed to the report include Michael Barrett and Megan Buck Bhakta; central office staff who contributed include Robert Gibbons and Kevin Manley.

Office of Inspector General

<http://oig.hhs.gov>

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