

Department of Health and Human Services
**OFFICE OF
INSPECTOR GENERAL**

**RECOMMENDATION FOLLOWUP:
DELAWARE IS REPORTING MEDICAID
OVERPAYMENTS IN COMPLIANCE
WITH FEDERAL REQUIREMENTS**

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Office of Inspector General

<https://oig.hhs.gov>

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OFFICE OF AUDIT SERVICES FINDINGS AND OPINIONS

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

Report in Brief

Date: June 2019

Report No. A-03-17-00203

U.S. DEPARTMENT OF HEALTH & HUMAN SERVICES
OFFICE OF INSPECTOR GENERAL



Why OIG Did This Review

A previous OIG report found that, in 2009 and 2010, Delaware did not comply with Federal requirements to report all Medicaid overpayment collections. The report had five recommendations that were still unimplemented as of June 30, 2017.

Our objective was to determine whether Delaware implemented recommendations from our previous review and is in compliance with Federal requirements for reporting Medicaid overpayments.

How OIG Did This Review

Our audit covered the five recommendations from the previous OIG report that were still unimplemented as of June 30, 2017. To determine whether these recommendations had been implemented, we reviewed correspondence from the Centers for Medicare & Medicaid Services (CMS) and reviewed the State's new Medicaid Management Information System (MMIS). In reviewing the State's MMIS, we covered all 10,130 open Medicaid account receivables on file with Delaware as of March 8, 2018. We selected a judgmental sample of 38 claims and traced the overpayment amount through the MMIS to confirm that Delaware was accurately reporting the overpayment and refunding the Federal share to the Federal Government.

Recommendation Followup: Delaware Is Reporting Medicaid Overpayments In Compliance With Federal Requirements

What OIG Found

Delaware implemented all of the recommendations from our previous review and is in compliance with Federal requirements to report all Medicaid overpayments.

Two of the five unimplemented recommendations requested that Delaware refund \$10 million and \$2,391 respectively to the Federal Government. Correspondence from CMS found that Delaware had refunded that amount and reported the refund on the Form CMS-64.

Two of the remaining three unimplemented recommendations requested that the State agency apply the correct Federal Medical Assistance Percentage (FMAP) rate and develop internal controls to enable Delaware to correctly report and refund the Federal share of Medicaid overpayments. Our review found that Delaware implemented a new MMIS in 2017; this new MMIS has controls to ensure that it applies the correct FMAP. Using this new MMIS, Delaware is correctly reporting and refunding the Federal share of Medicaid overpayments.

The fifth recommendation requested that Delaware identify and report any unreported Medicaid overpayments collected before 2009 and after 2010. We were able to confirm that unreported Medicaid overpayments after 2010 were reported, but Delaware does not have detailed records of the open account receivables from before 2009. Because Delaware reported Medicaid overpayments after 2010, and because the State does not have detailed records for the period before 2009, we consider this recommendation to be implemented.

What OIG Recommends

This report contains no recommendations.

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INTRODUCTION

WHY WE DID THIS REVIEW

The Delaware Health and Social Services, Division of Medicaid and Medical Assistance (State agency) administers the Medicaid program in Delaware. From January 1, 2009, through December 31, 2010, the State agency collected Medicaid overpayments totaling \$16,293,609 that should have been reported on the Form CMS-64, Quarterly Medicaid Statement of Expenditures for the Medical Assistance program (Form CMS-64). An Office of Inspector General (OIG) report¹ found that of the \$16,293,609 in Medicaid overpayments collected, the State agency failed to report \$16,272,518 (\$10,080,378 Federal share). In their March 14, 2012, response to that review, State agency officials said that they believed the overpayments had been netted out of reported Medicaid expenditures but did not provide support for such adjustments. The report had five recommendations that were still unimplemented as of June 30, 2017.

OBJECTIVE

Our objective was to determine whether the State agency implemented the recommendations from our previous review and is in compliance with Federal requirements for reporting Medicaid overpayments.

BACKGROUND

The Medicaid program provides medical assistance to certain low-income individuals and individuals with disabilities. The Federal and State Governments jointly fund and administer the Medicaid program. At the Federal level, the Centers for Medicare & Medicaid Services (CMS) administers the program. Each State administers its Medicaid program in accordance with a CMS-approved State plan. Although the State has considerable flexibility in designing and operating its Medicaid program, it must comply with Federal requirements. The Federal Government pays its share of a State's Medicaid expenditures based on the Federal Medical Assistance Percentage (FMAP), which varies depending on the State's relative per capita income.

States use the Form CMS-64 to report actual Medicaid expenditures for each quarter and credit CMS with any refunds due. CMS uses the information on the CMS-64 to calculate the reimbursement due to the States for the Federal share of Medicaid expenditures. CMS's Medicaid Budget and Expenditure System allows States to submit the Form CMS-64 electronically.

The Medicaid program is intended to be the payer of last resort. Section 1902(a)(25)(A) of the Social Security Act (the Act) states that a State plan for medical assistance must provide that the State or local agency administering the plan will take all reasonable measures to ascertain

¹ *Delaware Did Not Comply With Federal Requirements to Report All Medicaid Overpayment Collections (A-03-11-00203)*, issued on June 28, 2012.

the legal liability of third parties to pay for care and service available under the plan. Section 1903(d)(2) of the Act requires States to refund the Federal share of Medicaid overpayments. Payments for which a third party has directly reimbursed the State are treated as overpayments. Federal regulations (42 CFR § 433.140(c)) require States that receive third-party reimbursement to pay the Federal Government its portion of the reimbursement in accordance with the FMAP for that State. Medicaid payments to providers who have been reimbursed by a liable third party for the same services are also unallowable overpayments. Federal regulations (42 CFR § 433.312) require the State to refund the Federal share of those provider overpayments at the appropriate FMAP rate. The State agency reports overpayment collections through its Medicaid Management Information System (MMIS).

HOW WE CONDUCTED THIS REVIEW

Our audit covered the five recommendations from the previous OIG report that were still unimplemented as of June 30, 2017. To determine whether these recommendations had been implemented, we reviewed correspondence from CMS and reviewed the State's new MMIS. In reviewing the State's MMIS, we covered all 10,130 open Medicaid account receivables on file with the State agency as of March 8, 2018. We selected a judgmental sample of 38 claims with values between \$5 and \$3,000,000. We traced the overpayment amount through the MMIS to confirm that the State agency was accurately reporting the overpayment and refunding the Federal share to the Federal Government.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

The Appendix contains the details of our scope and methodology.

RESULTS OF AUDIT

The State agency implemented all of the recommendations from our previous review and is in compliance with Federal requirements to report all Medicaid overpayments. The previous OIG report contained five recommendations that were still unimplemented as of June 30, 2017. Two of the five recommendations requested that the State agency refund \$10,080,378 and \$2,391 respectively (a total of \$10,082,769) to the Federal Government. Correspondence from CMS found that, as of December 31, 2017, the State had refunded that amount and reported the refund on the Form CMS-64.

Two of the remaining three unimplemented recommendations requested that the State agency apply the correct FMAP rate and develop internal controls to enable the State agency to correctly report and refund the Federal share of Medicaid overpayments. Our review found that the State implemented a new MMIS on January 1, 2017; this new MMIS has controls to ensure that it applies the correct FMAP. For 29 of the 38 claims in our sample, we were able to

confirm the initial reason for the overpayment and the record of the overpayment as an accounts receivable. We also were able to trace the 29 overpayments through the MMIS system, confirming that the overpayments were reported on the Form CMS-64 and refunded to the Federal Government. We were unable to trace the other nine claims because they were over 5 years old, and the State agency only maintains detailed records on open accounts receivables for a period of 5 years.

The fifth recommendation requested that the State agency identify and report any unreported Medicaid overpayments collected before and after our audit period of January 1, 2009, through December 31, 2010. Through our judgmental sample, we were able to confirm that unreported Medicaid overpayments after our audit period were reported. However, the State agency does not have detailed records of the open account receivables from before our audit period because it was over 5 years ago. Because the State agency reported Medicaid overpayments after the period of our previous review, and because the State does not have detailed records for the period before our previous review, we consider this recommendation to be implemented.

CONCLUSION

We determined that the State agency implemented all of the recommendations from our previous review. We also determined that the State agency is in compliance with Federal requirements for reporting Medicaid overpayments. The Table shows the specifics of how the State agency implemented the recommendations.

Table: Previous Report Recommendations and Corrective Actions Taken

Previous Report Recommendations	Corrective Actions Taken
Include unreported Medicaid overpayment collections of \$16,272,518 on the next Form CMS-64 and refund \$10,080,378 to the Federal Government.	The State agency reported the overpayment on the Form CMS-64 and refunded the \$10,080,378 to the Federal Government.
Account for the incorrectly calculated Federal share for the collections resulting from fraud and abuse investigations by refunding \$2,391 to the Federal Government.	The State agency refunded the \$2,391 to the Federal Government.
Apply the correct FMAP when reporting Medicaid overpayments on the Form CMS-64.	The State agency implemented a new MMIS and is now using the correct FMAP when reporting Medicaid overpayments.
Develop and implement internal controls that will enable the State agency to correctly report and refund the Federal share of Medicaid overpayments on the Form CMS-64.	The State agency implemented a new MMIS and is in compliance with Federal requirements for reporting Medicaid overpayments.

Previous Report Recommendations	Corrective Actions Taken
Identify and report any unreported Medicaid overpayments collected before and after our audit period.	The State agency reported the Medicaid overpayments collected after the period of our previous review, but the State agency does not have detailed records for the period before our previous review.

APPENDIX: AUDIT SCOPE AND METHODOLOGY

SCOPE

Our audit covered the five recommendations from a previous OIG report that were still unimplemented as of June 30, 2017. In order to determine whether these recommendations had been implemented, we reviewed correspondence from CMS and reviewed the State's new MMIS. In reviewing the State's MMIS, we covered all 10,130 open Medicaid account receivables on file with the State agency as of March 8, 2018. We selected a judgmental sample of 38 claims with values between \$5 and \$3,000,000 and traced each overpayment amount through the MMIS to confirm that the State agency was accurately reporting the overpayment and refunding the Federal share to the Federal Government.

We limited our review of internal controls to those related to our objective. We conducted fieldwork at the State agency's office in Newark, Delaware, from August 2017 through January 2019.

METHODOLOGY

To accomplish our objective, we:

- reviewed Federal laws, regulations, and guidance governing the collection of Medicaid overpayments;
- interviewed State agency officials regarding policies and procedures for reporting collections of Medicaid overpayments on the Form CMS-64;
- gained an understanding of the State agency's procedures for managing account receivables;
- selected a judgmental sample of 38 uncollected accounts receivables with values between \$5 and \$3,000,000 that were generated by Medicaid overpayments to test the State agency's MMIS and verify that the claims were processed correctly and included on the Form CMS-64 in compliance with Federal requirements for refunding Medicaid overpayments; and
- reviewed the State agency's Form CMS-64 for fiscal years 2015 through 2018 along with supporting documentation pertaining to the reporting of overpayments and credit adjustments to determine whether the collection of Medicaid overpayments was reported properly.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.