DEPARTMENT OF HEALTH AND HUMAN SERVICES Office of Inspector General

Office of Audit Services
1100 Commerce, Room 632
Dallas, Texas 75242

January 30, 2006

Report Number: A-06-05-00039

Mr. John Selig
Director
Arkansas Department of Human Services
Donaghey Plaza South, Slot S201
P.O. Box 1437
Little Rock, Arkansas 72203-1437

Dear Mr. Selig:

Enclosed are two copies of the Department of Health and Human Services (HHS), Office of Inspector General (OIG) final report entitled "Review of Arkansas's Accounts Receivable System for Medicaid Provider Overpayments for the Period October 1, 2003, through September 30, 2004." A copy of this report will be forwarded to the HHS action official noted below 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-06-05-00039 in all correspondence.

Sincerely yours,

Gordon L. Sato
Regional Inspector General
for Audit Services

Enclosures

Direct Reply to HHS Action Official:

James R. Farris, M.D.
Regional Administrator, Region VI
Centers for Medicare & Medicaid Services
1301 Young Street, Suite 714
Dallas, Texas 75202

Department of Health and Human Services

OFFICE OF INSPECTOR GENERAL

REVIEW OF ARKANSAS'S ACCOUNTS RECEIVABLE SYSTEM FOR MEDICAID PROVIDER OVERPAYMENTS

Daniel R. Levinson
Inspector General

JANUARY 2006
A-06-05-00039

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

This review is part of a multistate audit focusing on States' accounts receivable systems for Medicaid provider overpayments. An overpayment is a payment to a provider in excess of the allowable amount.

The principal authority for disallowing the Federal share of overpayments to providers is section 1903(d)(2) of the Social Security Act (the Act), which was amended by the Consolidated Omnibus Budget Reconciliation Act of 1985. Regulations addressing overpayments are included in 42 CFR §§ 433.300 to 433.322.

The Act requires the Centers for Medicare & Medicaid Services (CMS) to adjust reimbursements to a State for any overpayment or underpayment and requires States to report an overpayment adjustment within 60 days of the date of discovery, whether or not the State has recovered the overpayment from the provider. The State must credit the Federal share of an overpayment on the Quarterly Medicaid Statement of Expenditures for the Medical Assistance Program, Form CMS-64 (CMS-64), for the quarter in which the 60-day period ends.

For the audit period October 1, 2003, through September 30, 2004, the Arkansas Department of Human Services, Division of Medical Services (State agency), reported $4.2 million in overpayments.

OBJECTIVE

Our objective was to determine whether the State agency reported Medicaid provider overpayments in accordance with Federal requirements**.**

SUMMARY OF FINDINGS

The State agency did not report 112 Medicaid provider overpayments totaling $543,195 ($414,509 Federal share) in accordance with Federal regulations during the period October 1, 2003, through September 30, 2004. Specifically, the State agency did not report:

- 12 overpayments totaling $313,538 ($238,928 Federal share), and
- 100 overpayments totaling $229,657 ($175,581 Federal share) in a timely manner.

The State agency did not have sufficient policies and procedures in place to ensure that it reported overpayments pursuant to Federal regulations. As a result, the State agency did not return the Federal share of the unreported overpayments totaling $238,928. Furthermore, it did not return another $175,581 in the Federal share of overpayments within the required timeframe. The State agency's nonreporting and late reporting also potentially resulted in approximately $2,710 in higher interest expense to the Federal Government.

RECOMMENDATIONS

We recommend that the State agency:

- include on the CMS-64 the unreported overpayments identified during our audit period totaling $313,538, and refund to the Federal Government the $238,928 Federal share; and

- strengthen policies and procedures to ensure that all future overpayments are reported in accordance with Federal regulations, thereby mitigating the potentially higher interest expense to the Federal Government.

STATE AGENCY'S COMMENTS

In its written comments on our draft report, the State agency agreed to report the unreported overpayments on the CMS-64. The State agency also agreed to revise its procedures to ensure compliance with regulations regarding overpayments. The complete text of the State agency's comments is in Appendix B.

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INTRODUCTION

BACKGROUND

This review is part of a multistate audit focusing on States' accounts receivable systems for Medicaid provider overpayments. An overpayment is a payment to a provider in excess of the allowable amount.

The Medicaid Program

Enacted in 1965, Medicaid is a combined Federal-State entitlement program that provides health care and long-term care for certain individuals and families with low incomes and limited resources. Within a broad legal framework, each State designs and administers its Medicaid program in accordance with a State plan approved by the Centers for Medicare and Medicaid Services (CMS), which is responsible for the program at the Federal level. The Federal Government has established a financing formula to calculate the Federal share of the medical assistance expenditures under each State's Medicaid program.

In Arkansas, the Department of Human Services, Division of Medical Services (State agency), is responsible for administering the Medicaid program.

Medicaid Overpayments

The principal authority for disallowing the Federal share of overpayments to providers is section 1903(d)(2) of the Social Security Act (the Act), as amended by section 9512 of the Consolidated Omnibus Budget Reconciliation Act (COBRA) of 1985. Regulations addressing overpayments are included in 42 CFR §§ 433.300 to 433.322.

The Act requires CMS to adjust reimbursements to a State for any overpayment or underpayment. The Act requires States to report overpayment adjustments within 60 days from the date of discovery, whether or not the State has recovered the overpayment from the providers. Federal regulations define the discovery date as the earliest date of the following: (1) the date the State first notifies a provider in writing of an overpayment and specifies a dollar amount that is subject to recovery, (2) the date the provider initially acknowledges a specific overpayment in writing to the Medicaid agency, or (3) the date the State initiates a formal action to recoup a specific overpayment from a provider without having first notified the provider in writing. Thus, the State must make credit adjustments for the Federal share of overpayments on the CMS-64 report for the quarter in which the 60-day period ends. Section 9512 of COBRA does not provide for postponing this date pending the exhaustion of appeals. Also, section 9512 of COBRA does not provide for exempting States from refunding the Federal share based on the cost effectiveness of pursuing recovery.

OBJECTIVE, SCOPE, AND METHODOLOGY

Objective

Our objective was to determine whether the State agency reported Medicaid provider overpayments in accordance with Federal requirements.

Scope

We examined provider overpayments subject to the requirements of 42 CFR part 433 subpart F and reported on the quarterly CMS-64 reports for the audit period October 1, 2003, through September 30, 2004.

We did not review the overall internal control structure of the State agency's operations or its financial management. However, we gained an understanding of its controls related to determining Medicaid provider overpayments and collecting the corresponding accounts receivables.

We conducted our fieldwork at the State agency office in Little Rock, AR.

Methodology

To accomplish our objective, we:

- reviewed section 1903 of the Act, Federal regulations (42 CFR part 433), and applicable sections of "The State Medicaid Manual";
- reviewed the State's policies and procedures pertaining to provider overpayments;
- gained an understanding of the State agency's processes for recording, aging, and reporting provider overpayments;
- analyzed the quarterly CMS-64 reports along with supporting documentation and identified overpayments totaling $4.2 million;
- determined whether there were any additional provider overpayments that should have been reported on the CMS-64 for the audit period; and
- calculated the potentially higher interest expense to the Federal Government for those provider overpayments that were not reported on time.[1]

We conducted this review in accordance with generally accepted government auditing standards.

[1]We calculated the interest expense using the applicable daily interest rate per the Cash Management Improvement Act of 1990.

FINDINGS AND RECOMMENDATIONS

The State agency did not report 112 Medicaid provider overpayments totaling $543,195 ($414,509 Federal share) in accordance with Federal regulations during the period October 1, 2003, through September 30, 2004. Specifically, the State agency did not report:

- 12 overpayments totaling $313,538 ($238,928 Federal share) and

- 100 overpayments totaling $229,657 ($175,581 Federal share) in a timely manner.

The State agency did not have sufficient policies and procedures in place to ensure that it reported overpayments pursuant to Federal regulations. As a result, the State agency did not return the Federal share of the unreported overpayments totaling $238,928. Furthermore, it did not return another $175,581 in the Federal share of overpayments within the required timeframe. The State agency's nonreporting and late reporting also potentially resulted in approximately $2,710 in higher interest expense to the Federal Government.

OVERPAYMENTS WERE NOT REPORTED

The State agency did not report 12 Medicaid provider overpayments totaling $313,538 ($238,928 Federal share) in accordance with Federal requirements because (1) the overpayments were in an appeals process, (2) it believed that it was not cost effective to pursue recovery, or (3) of agency personnel oversight.

The requirements for reporting Medicaid overpayments on the CMS-64 are set forth in 42 CFR part 433. Pursuant to 42 CFR § 433.312, the State must refund the Federal share of overpayments within 60 days following discovery, whether or not the State has recovered the overpayments from the providers. Section 9512 of the COBRA does not provide for postponing refunds of the Federal share pending exhaustion of appeals, nor does it provide for exempting States from refunding the Federal share of discovered overpayments based on the cost effectiveness of pursuing recovery.

The State agency did not return the Federal share of overpayments totaling $238,928 in accordance with Federal regulations. This also potentially resulted in a higher interest expense to the Federal Government of approximately $2,274.

OVERPAYMENTS WERE NOT REPORTED IN A TIMELY MANNER

The State agency did not report 100 Medicaid provider overpayments totaling $229,657 ($175,581 Federal share) within the timeframes required by Federal regulations because of unexplained posting delays. The time the State agency took beyond the 60 days allowed to report these overpayments averaged 101 days and ranged from 90 days to 360 days.

Pursuant to 42 CFR §§ 433.312 and 433.320, a State has 60 days from the date of discovery of an overpayment to a provider to recover or seek to recover the overpayment before the Federal

share must be refunded to CMS. The State must refund the Federal share of overpayments on the CMS-64 report submitted for the quarter in which the 60-day period ends, whether or not the State has recovered the overpayment from the provider.

The State agency did not return in a timely manner the Federal share of overpayments totaling $175,581 in accordance with Federal regulations. This also potentially resulted in a higher interest expense to the Federal Government of approximately $436.

RECOMMENDATIONS

We recommend that the State agency:

- include on the CMS-64 the unreported overpayments identified during our audit period totaling $313,538, and refund to the Federal Government the $238,928 Federal share; and

- strengthen policies and procedures to ensure that all future overpayments are reported in accordance with Federal regulations, thereby mitigating the potentially higher interest expense to the Federal Government.

STATE AGENCY'S COMMENTS

In its written comments on our draft report, the State agency agreed to report the unreported overpayments on the CMS-64. The State agency also agreed to revise its procedures to ensure compliance with regulations regarding overpayments. The complete text of the State agency's comments is in Appendix B.

APPENDIXES

APPENDIX A

REVIEW OF ARKANSAS'S ACCOUNTS RECEIVABLE SYSTEM FOR MEDICAID PROVIDER OVERPAYMENTS REPORT NUMBER A-06-05-00039

Unreported Provider Overpayments (Including Interest)

Date Identified	Provider Overpayment Amount	FFP Rate	Federal Share	Interest on Federal Share
September 2003	$63,138	77.62	$49,008	$664
October 2003	27,477	77.62	21,328	289
November 2003	66,298	77.62	51,460	573
February 2004	61	77.62	47	-
March 2004	4,841	77.62	3,758	33
April 2004	1,223	77.62	949	8
July 2004	150,500	74.67	112,378	707
Total	**$313,538**		**$238,928**	**$2,274**

Arkansas Department of Health and Human Services
Office of Finance and Administration

P.O. Box 1437, Slot W-401 Little Rock, AR 72203-1437 501-682-5448 • Fax: 501-682-6444 • TDD: 501-682-8933

January 13, 2004

Mr. Gordon L. Sato
Regional Inspector General
For Audit Services
Department of Health & Human Services
1100 Commerce, Room 632
Dallas, TX 75242

Dear Mr. Sato:

This correspondence is in response to the Office of Inspector General draft report entitled "Review of Arkansas's Accounts Receivable System for Medicaid Provider Overpayments for the Period October 1, 2003 through September 30, 2004."

Following is our response to the findings and recommendations:

Finding # 1

12 overpayments totaling $313,538 ($238,928 Federal share)

Recommendation

Include on the CMS-64 the unreported overpayments identified during our audit period totaling $313,538, and refund to the Federal Government the $238,928 Federal Share

Response

DHHS is currently researching the overpayments and will report the appropriate overpayment amounts on our CMS-64. In order to ensure that we have identified the correct overpayments, we request that the OIG send us a listing of the 12 identified overpayments so that we can confirm the accuracy of our reporting.

Finding # 2

100 overpayments totaling $229,657 ($175,581 Federal share) in a timely manner

Recommendation

Strengthen policies and procedures to ensure that all future overpayments are reported in accordance with Federal regulations, thereby mitigating the potentially higher interest expense to the Federal Government

Mr. Gordon Sato
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Response

The DHHS procedures allowed for the Administrative Hearing process to occur and allowed time for resolution of the overpayment claim before referral to Accounts Receivable establishing the overpayment. Procedures are being revised to make referral to Accounts Receivable in accordance with the regulations which will then be reported on the CMS-64 and appropriate adjustments when final dispensation is made.

We appreciate the opportunity to respond to the findings and recommendations and will make every effort to comply with Federal regulations regarding overpayments thereby mitigating the potentially higher interest expense to the Federal Government.

Sincerely,

Jerry Berry
DHHS Chief Fiscal and Administrative Officer

cc: John Selig, Director, Department of Human Services
Roy Jeffus, Director, Division of Medical Services

ACKNOWLEDGMENTS

This report was prepared under the direction of Gordon L. Sato, Regional Inspector General for Audit Services. Other principal Office of Audit Services staff who contributed include:

Paul Chesser, *Audit Manager*
Sharon Melvin, *Senior Auditor*
Emmanuel Nwachuku, *Auditor*
Laura Cummngs, *Auditor*

For information or copies of this report, please contact the Office of Inspector General's Public Affairs office at (202) 619-1343.