



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of Inspector General  
Offices of Audit Services

Region VII  
601 East 12th Street  
Room 284A  
Kansas City, Missouri 64106

**MAY 17 2006**

Report Number: A-07-05-03067

Mary Steiner, Medicaid Administrator  
Nebraska Department of Health and Human Services, Finance and Support  
301 Centennial Mall South, 5<sup>th</sup> Floor  
Lincoln, Nebraska 68509

Dear Ms. Steiner:

Enclosed are two copies of the U.S. Department of Health and Human Services, Office of Inspector General (OIG) final report entitled "Nebraska Medicaid Payments for Skilled Professional Medical Personnel." A copy of this report will be forwarded to the HHS action official noted on the following page for review and any action deemed necessary.

The HHS action official will make final determination as to actions taken on all matters reported. We request that you respond to the HHS action official within 30 days from the date of this letter. Your response should present any comments or additional information that you believe may have a bearing on the final determination.

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

If you have any questions or comments about this report, please do not hesitate to call me at (816) 426-3591, extension 274, or contact Greg Tambke, Audit Manager, at (573) 893-8338, extension 30, or through e-mail at [Greg.Tambke@oig.hhs.gov](mailto:Greg.Tambke@oig.hhs.gov). Please refer to the report number A-07-05-03067 in all correspondence.

Sincerely,

A handwritten signature in black ink, appearing to read "Patrick J. Cogley".

Patrick J. Cogley  
Regional Inspector General  
for Audit Services

Enclosures

**Direct Reply to HHS Action Official:**

Thomas Lenz  
Regional Administrator, Region VII  
Centers for Medicare & Medicaid Services  
Richard Bolling Federal Building  
Room 227  
601 East 12<sup>th</sup> Street  
Kansas City, Missouri 64106

Department of Health and Human Services

**OFFICE OF  
INSPECTOR GENERAL**

**NEBRASKA MEDICAID  
PAYMENTS FOR SKILLED  
PROFESSIONAL MEDICAL  
PERSONNEL**



Daniel R. Levinson  
Inspector General

May 2006  
A-07-05-03067

# ***Office of Inspector General***

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## **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

Pursuant to Title XIX of the Social Security Act, the Federal Government reimburses States for Medicaid-related administrative costs necessary for the proper and efficient administration of the Medicaid State plan. In general, the Federal Government reimburses States for Medicaid administrative costs at a matching rate of 50 percent. However, the enhanced matching rate is 75 percent for the compensation and training of skilled professional medical personnel and their supporting staff. Generally, in order for the enhanced rate to be available, skilled professional medical personnel must complete a 2-year program leading to an academic degree or certificate in a medically related program. Skilled professional medical personnel must perform activities that require the use of their professional training and experience. The activities must be directly related to the administration of the Medicaid program and cannot include direct medical assistance.

Additionally, directly supporting staff claimed at the enhanced rate must provide clerical services that are directly necessary for the completion of the professional medical responsibilities. Skilled professional medical staff must directly supervise the supporting staff and the performance of the supporting staff's work.

In Nebraska, the Department of Health and Human Services, Finance and Support (State agency) administers the Medicaid program. The State agency employs skilled professional medical personnel directly; contracts with individual skilled professional medical personnel; and contracts with county health departments and other public agencies for skilled professional medical personnel services. For example, a number of contracted agencies provided public health outreach and nursing education activities. The contractors submit to the State agency billing statements that list their expenditures. The State agency consolidates the billing statements and State personnel costs and submits the information on the quarterly Form CMS-64, "Quarterly Medicaid Statement of Expenditures for the Medical Assistance Program" to the Centers for Medicare & Medicaid Services (CMS) for reimbursement.

The State agency claimed Federal reimbursement of \$2,702,182<sup>1</sup> for Federal fiscal year (FY) 2003 skilled professional medical personnel administrative activities.

### OBJECTIVE

Our objective was to determine if the State agency properly claimed payments for skilled professional medical personnel at the enhanced Federal funding rate for FY 2003.

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<sup>1</sup>The State agency claimed Federal reimbursement of \$2,881,493 for FY 2003 current expenditures. It also made claim adjustments that decreased the reimbursement by \$179,311. Therefore, Federal reimbursement totaled \$2,702,182 for FY 2003 skilled professional medical personnel administrative activities.

## SUMMARY OF FINDINGS

The State agency did not properly claim payments for skilled professional medical personnel at the enhanced Federal funding rate for FY 2003. Specifically, the State agency claimed costs for:

- personnel who did not meet the education requirements,
- personnel in positions that did not require medical expertise,
- directly supporting staff who did not meet supervision or job responsibility requirements, and
- activities that did not require medical knowledge or skills.

The State agency also improperly claimed operating costs at the enhanced funding rate, as well as travel and training costs for personnel who did not meet skilled professional medical personnel requirements. In addition, it incorrectly claimed expenditures for funds that were intended to reduce local matching requirements for public health outreach and nursing education contractors.

The State agency also erroneously duplicated its enhanced claim for skilled professional medical personnel in school-based settings during two quarters of the audit period.

The State agency improperly claimed payments because it did not have policies and procedures to ensure that it claimed enhanced reimbursement in accordance with Federal regulations. In fact, the State agency stated that there were no State policies and procedures for claiming skilled professional medical personnel expenditures. Additionally, the State agency misclassified some costs because of problems related to implementing a new accounting system. As a result, the State agency received Medicaid enhanced funding overpayments of \$541,563 (Federal share) for FY 2003.

In addition, the State agency improperly claimed personnel costs related to claims processing as skilled professional medical personnel costs. The claims processing personnel costs may be allowable at the enhanced rate under the Medicaid Management Information System (MMIS) program<sup>2</sup>. However, the MMIS program is outside the scope of our review, and we did not determine if the personnel costs were allowable. Therefore, we set aside for CMS consideration the \$619,219 in Federal reimbursement the State agency received.

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<sup>2</sup>MMIS is the mechanized claims processing and information retrieval system, which States are required to maintain. MMIS operation costs also are eligible for the 75-percent enhanced funding.

## **RECOMMENDATIONS**

The State agency should:

- remit the \$248,660 for duplicate claims to the Federal Government,
- refund \$292,903 to the Federal Government for costs improperly claimed at the enhanced rate,
- work with CMS to resolve the \$619,219 set aside because the State agency improperly claimed personnel costs related to claims processing, and
- develop and implement policies and procedures for claiming skilled professional medical personnel expenditures and monitoring payments.

## **STATE AGENCY'S COMMENTS**

The State agency either agreed or partially agreed with all the recommendations. The State agency agreed to refund \$316,987. In addition, the State agency stated that the \$552,877 associated with claims processing costs should have been claimed under the MMIS program on the CMS-64 report and the remaining \$66,342 of the amount set aside for CMS consideration should have been claimed at 50 percent. The State agency stated that it will correct the CMS-64 report for all these errors.

However, the State agency did not agree with all of the findings. The State agency disagreed that one contracted agency's staff did not meet the education requirements, but it did not contest the finding. The State agency also disagreed that work performed by contracted public health nurses did not require medical expertise. The State agency argued that contracted nurses performed direct work that required professional education and training. In addition, the State agency questioned the finding that it improperly claimed operating costs ineligible for enhanced match and requested further clarification. It believed the operating costs it claimed at the enhanced rate directly supported skilled professional medical personnel.

The State agency's comments are included in their entirety as an appendix.

## **OFFICE OF INSPECTOR GENERAL'S RESPONSE**

We commend the State agency for taking corrective action to refund \$316,987 costs incorrectly claimed at the enhanced Federal funding rate. In addition, we commend the State agency for agreeing that it incorrectly claimed the \$552,877 associated with claims processing costs as skilled professional medical personnel costs. However, we did not review whether the claims were allowable at the enhanced rate as MMIS program costs. We also commend the State agency for taking corrective action to refund the remaining \$66,342 associated with managed care and temporary staff.



We continue to believe that most duties performed by contracted public health nurses did not require medical expertise. The contracted medical professional staff we interviewed described multiple activities that are not allowable at the enhanced rate. Therefore, we continue to recommend that the State agency refund the \$217,077 associated with the claimed activities that did not require medical knowledge.

We continue to recommend the State agency refund the \$7,499 associated with the operating costs because operating costs are only allowable at the 50-percent Federal funding rate if they directly support the Medicaid program.

## **OTHER MATTER**

### **Skilled Professional Medical Staff Not Included in FY 2003 Claim**

The State agency indicated that it erroneously excluded seven individuals from its claim for skilled professional medical personnel costs. Upon review, three of these individuals did not meet skilled professional medical personnel requirements pursuant to 42 CFR § 432.50(d)(1). For the remaining four individuals, their wages and benefits were allocated to multiple codes in the accounting system, none of which were skilled professional medical personnel codes; therefore, we were unable to quantify the effect. We suggest that the State agency work with CMS to determine whether the four remaining positions meet all Federal requirements for enhanced reimbursement.

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## **INTRODUCTION**

### **BACKGROUND**

Pursuant to Title XIX of the Social Security Act, the Federal Government reimburses States for administrative costs necessary for the proper and efficient administration of the Medicaid State plan. In general, the Federal Government reimburses States for Medicaid administrative costs at a matching rate of 50 percent.

The enhanced matching rate is 75 percent for the compensation and training of skilled professional medical personnel and their supporting staff. Skilled professional medical personnel are physicians, dentists, nurses, and other specialized personnel who have completed 2 years of professional education and training in the field of medical care or appropriate medical practice. Skilled professional medical personnel must perform activities that require the use of their professional training and experience. The activities must be directly related to the administration of the Medicaid program and cannot include direct medical assistance.

Additionally, directly supporting staff claimed at the enhanced rate must provide clerical services that are directly necessary for the completion of the professional medical responsibilities. Skilled professional medical staff must directly supervise the supporting staff and the performance of the supporting staff's work.

In Nebraska, the Department of Health and Human Services, Finance and Support (State agency) administers the Medicaid program. The State agency employs skilled professional medical personnel directly; contracts with individual skilled professional medical personnel; and contracts with county health departments and other public agencies for skilled professional medical personnel services. For example, a number of contracted agencies provided public health outreach and nursing education activities. The contractors submit to the State agency billing statements that list their expenditures. The State agency consolidates the billing statements and State personnel costs and submits the information on the quarterly Form CMS-64, "Quarterly Medicaid Statement of Expenditures for the Medical Assistance Program," to the Centers for Medicare & Medicaid Services (CMS) for reimbursement.

### **OBJECTIVE, SCOPE, AND METHODOLOGY**

#### **Objective**

Our objective was to determine if the State agency properly claimed payments for skilled professional medical personnel at the enhanced Federal funding rate for Federal fiscal year (FY) 2003.

## Scope

The State agency claimed Federal reimbursement of \$2,702,182 for FY 2003 skilled professional medical personnel administrative activities.<sup>1</sup>

We did not perform a detailed review of the State agency's internal controls. We limited our internal control review to obtaining an understanding of the State agency's policies and procedures used to claim skilled professional medical personnel costs.

We performed fieldwork at the Nebraska Department of Health and Human Services, Finance and Support's office in Lincoln, Nebraska, between June and September 2005.

## Methodology

To accomplish our objective, we:

- reviewed applicable Federal regulations and CMS guidance;
- obtained and reviewed supporting documentation from the State agency pertaining to the relevant paid claim, including cost accounting reports, payroll records, invoices, and disbursement documents relating to payments made to contractors;
- reconciled supporting documentation to the expenditures reported on Form CMS-64 and prior period adjustment schedules<sup>2</sup>;
- interviewed State agency employees to better understand how they administered the Medicaid program;
- reviewed medical licensure, certification information, and position descriptions and/or contracts to ensure the individuals claimed as skilled professional medical personnel and directly supporting staff met Federal requirements; and
- interviewed skilled professional medical personnel and directly supporting staff to better understand what activities they performed.

We limited our review to determining whether the State agency's claims for skilled professional medical personnel at the enhanced Federal matching rate were allowable. For costs that did not meet enhanced Federal matching requirements, we accepted the costs claimed at the Federal

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<sup>1</sup>The State agency claimed Federal reimbursement of \$2,881,493 for FY 2003 current expenditures. It also made claim adjustments that decreased reimbursement by \$179,311. Therefore, Federal reimbursement totaled \$2,702,182 for FY 2003 skilled professional medical personnel administrative activities.

<sup>2</sup>Expenditures for skilled professional medical personnel are reported on line 3 of schedule CMS-64.10 Base. Increasing and decreasing adjustments related to prior years' claims are reported on the prior period adjustment schedules (CMS-64.10P).

matching rate of 50 percent, unless they were otherwise unallowable. For costs found to be specifically unallowable, we disallowed the entire amount claimed.

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

## **FINDINGS AND RECOMMENDATIONS**

The State agency did not properly claim payments for skilled professional medical personnel at the enhanced Federal funding rate for FY 2003 in accordance with Federal requirements. Specifically, the State agency claimed costs for:

- personnel who did not meet the education requirements,
- personnel in positions that did not require medical expertise,
- directly supporting staff who did not meet supervision or job responsibility requirements, and
- activities that did not require medical knowledge or skills.

The State agency also improperly claimed operating costs at the enhanced funding rate, as well as travel and training costs for personnel who did not meet skilled professional medical personnel requirements. In addition, it incorrectly claimed expenditures for funds that were intended to reduce local matching requirements for public health outreach and nursing education contractors.

The State agency also erroneously duplicated its enhanced claim for skilled professional medical personnel in school-based settings during two quarters of the audit period.

The State agency improperly claimed payments because it did not have policies and procedures to ensure that it claimed enhanced reimbursement in accordance with Federal regulations. In fact, the State agency stated that there were no State policies and procedures for claiming skilled professional medical personnel expenditures. Additionally, the State agency misclassified some costs because of problems related to implementing a new accounting system. As a result, the State agency received Medicaid enhanced funding overpayments of \$541,563 (Federal share) for FY 2003.

In addition, the State agency improperly claimed personnel costs pertaining to claims processing as skilled professional medical personnel costs. The claims processing personnel costs may be allowable at the enhanced rate under the Medicaid Management Information System (MMIS) program<sup>3</sup>. However, the MMIS program is outside the scope of our review, and we did not determine if the personnel costs were allowable. Therefore, we set aside for CMS consideration the \$619,219 in Federal reimbursement the State agency received.

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<sup>3</sup>MMIS is the mechanized claims processing and information retrieval system, which States are required to maintain. MMIS operation costs also are eligible for the 75-percent enhanced funding.

## **SKILLED PROFESSIONAL MEDICAL PERSONNEL REQUIREMENTS**

### **Federal Regulations for Skilled Professional Medical Personnel and Directly Supporting Staff**

Federal regulations (42 CFR § 432.50(d)(1)) state that the enhanced rate of 75 percent is available for skilled professional medical personnel and directly supporting staff if the following criteria are met:

- (i) The expenditures are for activities that are directly related to the administration of the Medicaid program, and as such do not include expenditures for medical assistance;
- (ii) The skilled professional medical personnel have professional education and training in the field of medical care or appropriate medical practice. ‘Professional education and training’ means the completion of a 2-year or longer program leading to an academic degree or certificate in a medically related profession. This is demonstrated by possession of a medical license or certificate. . . .
- (iii) The skilled professional medical personnel are in positions that have duties and responsibilities that require those professional medical knowledge and skills.
- (v) The directly supporting staff are secretarial, stenographic, and copying personnel and file and records clerks who provide clerical services that are directly necessary for the completion of the professional medical responsibilities and functions of the skilled professional medical staff. The skilled professional medical staff must directly supervise the supporting staff and the performance of the supporting staff’s work.

### **Federal Regulations Concerning Reimbursement for Personnel and Operating Costs**

Federal regulations (42 CFR § 433.15(b)(5)) state that the Federal Government will pay States for 75 percent of the costs of “compensation and training of skilled professional medical personnel and staff directly supporting those personnel if the criteria specified in 42 CFR § 432.50(c) and (d) are met.” Further, 42 CFR § 433.15(b)(7) states that the Federal Government will pay 50 percent of the costs of “all other activities the Secretary [of the U.S. Department of Health and Human Services] finds necessary for proper and efficient administration of the State plan.”

### **Federal Cost Principles for Applicable Credits**

Office of Management and Budget (OMB) Circular A-87, Attachment A, part C(1)(j), states that costs must “Be adequately documented.” Part C(3)(c) states that: “Any cost allocable to a particular Federal award or cost objective under the principles provided for in this Circular may not be charged to other Federal awards to overcome fund deficiencies, to avoid restrictions imposed by law or terms of the Federal awards, or for other reasons.” Part C(4)(b) further states that:

In some instances, the amounts received from the Federal Government to finance activities or service operations of the governmental unit should be treated as applicable credits. Specifically, the concept of netting such credit items (including any amounts used to meet cost sharing or matching requirements) should be recognized in determining the rates or amounts to be charged to Federal awards.

## **UNALLOWABLE CLAIMS AT THE ENHANCED RATE**

### **Education Requirements**

The State agency claimed personnel costs for nine State agency employees who did not meet the 2-year education and licensure requirements pursuant to 42 CFR § 432.50(d)(1)(ii). It also claimed personnel costs for one contracted agency that could not provide evidence that its staff met the requirements.

Three of the nine State agency employees had degrees that were not medically related. Another State agency employee had no medical training. This employee had experience with the State agency, but did not have a degree. The State agency could not provide evidence that the remaining five employees met the education and licensure requirements.

The State agency also could not provide evidence that contracted skilled medical personnel met the education and licensure requirements. The contracting agency claimed costs even though there was no contract activity during the audit period.

The enhanced portion of personnel costs for the State agency employees who did not meet the 2-year education requirements is unallowable. In addition, one of the nine employees held a position that was not directly related to the administration of the Medicaid program. All personnel costs claimed for this individual and the unsupported costs claimed for the one contracted agency are unallowable.

### **Positions Did Not Require Medical Expertise**

Contrary to 42 CFR § 432.50(d)(1)(iii), the State agency claimed personnel costs for four employees whose positions did not require medical expertise.<sup>4</sup> The employees included two Program Specialists, a Managed Care Epidemiologist, and a Medical Services Unit Manager. None of the positions required a medical license, and the positions' duties and responsibilities did not require medical knowledge.

For example, the duties and responsibilities for the Program Specialists required knowledge of (1) the principles and practices of public administration and (2) methods and techniques of program planning and budgeting. Although a general qualification guideline for this position was a master's degree in epidemiology or public health, the Managed Care Epidemiologist's duties and responsibilities required knowledge of techniques relative to the study of health data,

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<sup>4</sup>We disallowed personnel costs for these positions because they also did not meet the 2-year education and licensure requirements; therefore, we did not quantify the impact of this individual error.



statistical inference, and theory and research protocols, not specific medical knowledge. Finally, the Medical Services Unit Manager's duties and responsibilities required a high school diploma or training in social work, public administration, human development, social sciences, or a related field.

The enhanced reimbursement is unallowable for these four employees whose positions did not require medical knowledge pursuant to 42 CFR § 432.50(d)(1)(ii). In addition, these employees did not meet the 2-year education requirement, which further indicates that these positions did not require medical knowledge.

### **Directly Supporting Staff**

The State agency claimed three directly supporting staff who did not meet the supervision or job responsibility requirements of 42 CFR § 432.50(d)(1)(v). The State agency claimed one support staff member who was not directly supervised by skilled professional medical personnel. Another support staff member, who did not qualify as skilled professional medical personnel, directly supervised this staff member and conducted the performance evaluations.

Additionally, the State agency claimed two non-skilled staff members who performed duties that were not directly necessary for the completion of skilled professional medical personnel responsibilities and functions. The duties were not clerical in nature but may have been considered skilled professional medical personnel duties. However, the two staff members did not qualify as skilled professional medical personnel or directly supporting staff. The enhanced reimbursement for the three staff members is unallowable.

### **Activities Did Not Require Medical Knowledge**

Contrary to 42 CFR § 432.50(d)(1)(iii), the State agency claimed activities, performed by skilled professional staff of public health outreach and nursing education contractors, that did not require medical knowledge or skills. For example, activities provided by these staff included intake processing, outreach, and arranging transportation. The enhanced Federal reimbursement related to these activities is unallowable.

Contrary to 42 CFR § 432.50(d)(1)(i), the contracted skilled professional medical personnel also performed some activities that were not directly related to the Medicaid program. Since not all of the supporting documentation for the contractor activities included narrative comments, and some comments were insufficient to determine the amount of time spent on a specific activity, we did not calculate the effect of these unallowable activities. We only calculated the enhanced Federal reimbursement related to these activities; the enhanced reimbursement is unallowable.

### **Personnel Costs**

The State agency improperly claimed personnel costs for claims processing, managed care, and temporary staff. These personnel costs were misclassified as skilled professional medical personnel costs. The State agency agreed that these personnel costs were not eligible for the

enhanced rate for skilled professional medical personnel pursuant to 42 CFR § 432.50(d)(1); however, the State agency believed the personnel costs were reimbursable at 75 percent under the MMIS program. The MMIS program is outside the scope of our review, and we did not determine if the personnel costs were allowable at the enhanced rate. Therefore, we set aside for CMS consideration the personnel costs the State agency received.

### **Other Costs Ineligible for Enhanced Reimbursement**

The State agency improperly claimed operating costs contrary to Federal requirements. It also claimed travel and training costs for personnel who did not meet skilled professional medical personnel requirements and claimed other miscellaneous expenses ineligible for enhanced reimbursement.

Contrary to 42 CFR § 433.15(b)(5), the State agency inappropriately claimed operating costs such as office supplies, dues and subscriptions, publications and printing, repairs and maintenance, computer hardware, software, and other miscellaneous expenses for enhanced Federal reimbursement. Therefore, the enhanced portion of the operating costs claimed is unallowable.

The State agency also claimed travel and training costs for personnel who did not meet skilled professional medical personnel requirements pursuant to 42 CFR § 432.50. Therefore, the travel and training expenditures related to the unallowable participants are ineligible for enhanced Federal reimbursement.

Finally, the State agency contracted with a number of agencies to provide public health outreach and nursing education activities. The contracts specified that the State agency agreed to pay the allowable Federal portion of personnel costs and other program expenses. The contractor agreed to provide the remaining portion of program expenses through local funding. The contracts also specified that should any additional Federal funding be obtained by the State agency, these funds would be passed back to the contractor to reduce their required local match. During one quarter, the State agency incorrectly claimed expenditures for funds that were intended to reduce local matching requirements.

### **Duplicate Claims for School-Based Skilled Professional Medical Personnel**

The State agency erroneously duplicated its enhanced claim for skilled professional medical personnel in school-based settings. During one quarter of the audit period, the State agency included costs for skilled professional medical personnel on both the Form CMS-64 and schedules for prior period adjustments, which duplicated its claim for these costs. The State agency agreed this was an error that overstated its claim for enhanced Federal reimbursement.

### **INADEQUATE POLICIES AND PROCEDURES**

The State agency did not have policies or procedures to ensure that it claimed enhanced reimbursement in accordance with Federal regulations. In fact, the State agency stated that there

were no State policies and procedures for claiming skilled professional medical personnel expenditures.

The State agency also misclassified some costs as a result of problems related to the implementation of a new accounting system during the audit period.

**EFFECT OF UNALLOWABLE CLAIMS PAID AT THE ENHANCED RATE**

Because the State agency did not properly claim payments for skilled professional medical personnel at enhanced Federal funding rates, it received \$541,563 (Federal share) in overpayments for FY 2003 (see the following table).

**Table: FY 2003 Unallowable Costs**

<b>Amount of Unallowable Costs</b>	<b>Reason for Disallowance</b>
\$31,416	Claimed personnel who did not meet education requirements
23,413	Claimed directly supporting staff who did not meet supervision or job responsibility requirements
217,077	Claimed activities that did not require medical knowledge
20,997	Improperly claimed operating, travel, and training costs at the enhanced rate
248,660	Duplicate claims for school-based skilled professional medical personnel
<b>\$541,563</b>	<b>TOTAL</b>

In addition, the State agency improperly claimed personnel costs related to claims processing. The claims processing personnel costs may be allowable at the enhanced rate under the MMIS program. However, the MMIS program is outside the scope of our review, and we did not determine if the personnel costs were allowable. Therefore, we set aside for CMS consideration the \$619,219 in Federal reimbursement the State agency received.

**RECOMMENDATIONS**

The State agency should:

- remit the \$248,660 for duplicate claims to the Federal Government,
- refund \$292,903 to the Federal Government for costs improperly claimed at the enhanced rate,

- work with CMS to resolve the \$619,219 set aside because the State agency improperly claimed personnel costs related to claims processing, and
- develop and implement policies and procedures for claiming skilled professional medical personnel expenditures and monitoring payments.

## **STATE AGENCY'S COMMENTS**

The State agency either agreed or partially agreed with all the recommendations. However, it did not agree with all of the findings. The State agency's comments are included in their entirety as an appendix.

## **REMIT \$248,660 FOR DUPLICATE CLAIMS**

### **State Agency's Comments**

The State agency concurred that it duplicated its enhanced claim for school-based skilled professional medical personnel expenditures. It stated that it reported the correct information on the CMS-64 report for the quarter that ended December 31, 2005.

### **Office of Inspector General's Response**

We commend the State agency for taking corrective action on the duplicate claims.

## **REFUND COSTS IMPROPERLY CLAIMED AT THE ENHANCED RATE**

### **Education Requirements and Positions Did Not Require Medical Expertise**

#### *State Agency's Comments*

The State agency generally concurred that employees for whom it claimed the enhanced match did not satisfy the professional education and training requirements or were in positions that did not require medical expertise. The State agency disagreed that one contracted agency's staff did not meet the education requirements, but it did not contest the finding. The State agency stated it will appropriately report the \$31,416 in staff costs on the CMS-64 report for the quarter that ended March 31, 2006.

#### *Office of Inspector General's Response*

We commend the State agency for taking corrective action to refund the personnel costs for employees who did not meet education requirements or were in positions that did not require medical expertise. However, we continue to believe that the contracted agency could not support its staff's educational level.

## **Directly Supporting Staff**

### *State Agency's Comments*

The State agency concurred that it claimed enhanced reimbursement for certain support personnel who were not directly supervised by skilled professional medical personnel or did not provide clerical support.

### *Office of Inspector General's Response*

We commend the State agency for taking corrective action on the costs for support personnel who did not meet requirements for enhanced funding.

## **Activities Did Not Require Medical Knowledge**

### *State Agency's Comments*

The State agency disagreed that work performed by contracted public health nurses did not require medical expertise. The State agency argued that contracted nurses performed direct work that required professional education and training. The State agency also stated that the CMS Title XIX Financial Management Review Guide, dated June 1986, supports the public health nurses' activities. In addition, the State agency believes that the example activities cited in the report (see "Activities Did Not Require Medical Knowledge") were incidental and did not comprise the bulk of the reimbursed activities.

The State agency noted that in order to calculate the overpayment, we reconciled the expenditure amount shown on the CMS-64 report to the expenditure amounts documented in the State agency's accounting system. The State agency stated that it corrected the entries for these activities on the CMS-64 report for the quarter that ended June 30, 2005.

### *Office of Inspector General's Response*

We continue to believe that most duties performed by contracted public health nurses did not require medical expertise. Through our review of the contracts and interviews with the contracted medical professional staff, we identified multiple activities that are not allowable at the enhanced rate. The unallowable activities included supervising staff, following up on missed appointments, helping patients complete Medicaid applications, and arranging transportation. The CMS Title XIX Financial Management Review Guide, dated February 2002 and applicable during the audit, lists "examples of functions that would not qualify [for the 75-percent enhanced rate] . . . : [Early and Periodic Screening, Diagnostic and Treatment], including all outreach activities such as notifying clients of required screens from a periodicity schedule, scheduling appointments, informing clients, . . . arranging transportation[, and] eligibility determinations." It further states: "that portion of [a skilled professional medical personnel's] time spent performing administrative functions and procedures not requiring skilled medical expertise is only claimable at 50 percent [Federal reimbursement]. An example of this would be [a skilled

professional medical personnel] who is also a supervisor.” Therefore, we continue to recommend that the State agency refund the \$217,077 associated with claimed activities that did not require medical knowledge.

We commend the State agency for taking corrective action concerning the expenditure amounts incorrectly reported on the CMS-64 report.

### **Other Costs Ineligible for Enhanced Reimbursement**

#### *State Agency’s Comments*

The State agency questioned the finding that it improperly claimed operating costs ineligible for enhanced match and requested further clarification. The State agency stated that: “operating costs . . . expended in direct support of the position eligible for enhanced funding and are integral to the position function have been claimed at the enhanced match.”

The State agency concurred “that amounts claimed for travel and training costs for personnel who do not meet skilled professional medical personnel requirements are ineligible for an enhanced match and [stated that it] will adjust the CMS-64 report for the quarter [that ended March 31, 2006,] by \$7,499.”

The State agreed that the \$13,287 in delinking funds<sup>5</sup> was erroneously categorized as a skilled professional medical personnel activity. The State agency stated it made an adjustment to correct the entry on the CMS-64 report for the quarter that ended June 30, 2005.

#### *Office of Inspector General’s Response*

Pursuant to 42 CFR § 433.15(b)(5), the Federal Government will pay States for 75 percent of the costs of “compensation and training of skilled professional medical personnel and staff directly supporting those personnel if the criteria specified in 42 CFR § 432.50(c) and (d) are met.” Consequently, operating costs not associated with personnel or training costs related to skilled professional medical personnel are not eligible for enhanced funding. The State agency claimed operating costs, such as postage, parking, and copying costs, at the enhanced Federal funding rate. The operating costs are only allowable at the 50-percent Federal funding rate if they directly support the Medicaid program. Therefore, we continue to recommend the State agency refund to the Federal Government the \$7,499 associated with the operating costs.

We commend the State agency for taking corrective action on the travel and training costs claimed for personnel who do not meet skilled professional medical personnel requirements. However, the ineligible travel and training costs amount to \$211. In addition, we commend the State agency for taking corrective action on the delinking funds that were miscategorized.

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<sup>5</sup>In the body of the report, delinking funds are included in discussion concerning operating costs (see “Other Costs Ineligible for Enhanced Reimbursement”). The State agency agreed to reimburse agencies participating in the contract the allowable Federal portion of personnel costs and other program expenses. The Federal portion of the operating costs is Federal delinking funds.

## **WORK WITH CMS TO RESOLVE THE SET-ASIDE AMOUNT**

### **State Agency's Comments**

The State agency agreed that the claims processing costs were miscategorized on the CMS-64 report. However, it stated that amounts identified as claims processing are payments related to its mechanized claims processing and information retrieval system for Medicaid and are eligible for the 75-percent enhanced rate. The State agency stated that miscategorizing the claims had no material impact on the Federal claim; therefore, the audit disallowance was unnecessary. However, the State agency stated it would adjust the CMS-64 report for the quarter that ended March 31, 2006, to report the costs properly.

The State agency agreed that it incorrectly listed the managed care contract payment and temporary personnel costs as skilled professional medical personnel expenditures and that it should have claimed the costs at the 50-percent standard rate. The State agency stated it will make the corrections in the amount of \$66,342 on the CMS-64 report for the quarter that ended March 31, 2006.

### **Office of Inspector General's Response**

We commend the State agency for recognizing that it claimed the claims processing costs on the wrong line on the CMS-64 report and for its willingness to record the expense properly. However, we do not agree that mentioning the error was unnecessary. We did not review whether the claims processing costs were allowable at the enhanced rate under the MMIS program, but they were unallowable in the context of our review. We continue to recommend that the State agency work with CMS to determine whether the claims processing costs are allowable at the enhanced rate under the MMIS program.

We commend the State agency for acknowledging that the managed care payment and temporary personnel costs are only reimbursable at the 50-percent Federal reimbursement rate and for taking corrective action.

## **DEVELOP AND IMPLEMENT POLICIES AND PROCEDURES FOR CLAIMING SKILLED PROFESSIONAL MEDICAL PERSONNEL**

### **State Agency's Comments**

The State agency stated that the "errors identified through this audit resulted in a large part from underlying conditions that existed during the audit period . . . [but] that are no longer present. During the audit period, the State of Nebraska was transitioning to a new accounting system and was experiencing a number of coding and documentation problems attendant to this transition." According to the agency, the new accounting system is functioning smoothly. Skilled professional medical personnel staff "are now correctly identified for payment purposes and procedures have been put in place to monitor contract expenditures and ensure the appropriate

coding of expenses.” The State agency stated it “will continue to work with CMS on activities and procedures to further refine the process of claiming federal Medicaid funds eligible for [skilled professional medical personnel] reimbursement according to our approved cost allocation plan.”

### **Office of Inspector General’s Response**

We commend the State agency for correctly identifying the skilled professional medical personnel for payroll purposes and for developing and implementing procedures to monitor contract expenditures. We agree that some of the errors we identified were caused by the conversion to a new accounting system.

## **OTHER MATTER**

### **Skilled Professional Medical Staff Not Included in FY 2003 Claim**

The State agency indicated that it erroneously excluded seven individuals from its claim for skilled professional medical personnel costs. Upon review, three of these individuals did not meet skilled professional medical personnel requirements pursuant to 42 CFR § 432.50(d)(1). For the remaining four individuals, their wages and benefits were allocated to multiple codes in the accounting system, none of which were skilled professional medical personnel codes; therefore, we were unable to quantify the effect. We suggest that the State agency work with CMS to determine whether the four remaining positions meet all Federal requirements for enhanced reimbursement.

### **State Agency’s Comments**

The State agency stated that it identified the seven staff whose personnel costs it claimed at the 50-percent rate, but who met the criteria for enhanced match based on professional education and job requirements. The State agency stated it will make the appropriate adjustments to claim the enhanced rate for the seven staff on the CMS-64 report for the quarter that ended March 31, 2006.

### **Office of Inspector General’s Response**

We recommend that CMS review the seven staff before the State agency claims them at the enhanced rate. Three employees are in positions that do not require their medical knowledge or do not support skilled professional medical personnel. The remaining four employees performed multiple tasks, some of which were not directly related to the administrative claiming program for skilled professional medical personnel.



# **APPENDIX**

## NEBRASKA HEALTH AND HUMAN SERVICES SYSTEM

DEPARTMENT OF SERVICES • DEPARTMENT OF REGULATION AND LICENSURE  
DEPARTMENT OF FINANCE AND SUPPORT

STATE OF NEBRASKA

DAVE HEINEMAN, GOVERNOR

April 14, 2006

Report Number: A-07-05-03067

Patrick J. Cogley  
Regional Inspector General for Audit Services  
Department of Health and Human Services, Region VII  
601 East 12<sup>th</sup> Street  
Room 284A  
Kansas City, Missouri 64108

Dear Mr. Cogley:

The response of the Nebraska Department of Health and Human Services Finance and Support to the draft audit report entitled "Nebraska Medicaid Payments for Skilled Professional Medical Personnel" follows below:

- **Recommendation A: remit the \$248,660 for duplicate claims to the Federal Government**

We concur with the finding of a duplicate claim for school-based SPMP expenditures and have taken action to remedy this error. Correct information was recorded on the CMS-64 for the quarter ending December 31, 2005.

- **Recommendation B: refund \$292,903 to the Federal government for costs improperly claimed at the enhanced 75% SPMP rate**

The calculated refund amount of \$292,903 is the sum of four separate areas that will be responded to individually. These include

- \$31,416 for certain employees who did not meet SPMP education requirements or whose positions did not require medical expertise
- \$23,413 for specific support staff who did not directly support SPMP personnel or whose duties were not clerical in nature
- \$217,077 for contracted public health nurse activities which did not require medical knowledge or skills
- \$20,997 for operating costs ineligible for enhanced match

We concur with the finding that certain employees for whom the enhanced match was claimed did not satisfy the professional education and training requirement or were in positions which did not require medical expertise. We disagree with your finding regarding our contract with the Nebraska Physical Therapy Association; any individual who would have provided expert advice under the contract met the education and training requirements. However, due to the time involved to reconstruct activity, we are not contesting this finding.

We concur with the finding that certain support personnel for whom the enhanced match was claimed were not directly supervised by SPMP staff or did not provide clerical support.

DEPARTMENT OF HEALTH AND HUMAN SERVICES FINANCE AND SUPPORT  
PO Box 95026 LINCOLN, NE 68509-5026 PHONE (402) 471-3121  
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We also have identified seven staff whose expenses were claimed at the standard 50% FFP rate during the audit period but who meet the criteria for enhanced match based on professional education and job requirements. We will make the appropriate adjustments to back out the \$54,829 in staff costs identified as ineligible for SPMP and we will be adding back other eligible but unclaimed appropriate staff costs on the CMS-64 report for the quarter ending March 31, 2006.

We strongly disagree with the finding that the work performed by contracted public health nurses did not require medical expertise. Expenses reimbursed under these contracts are already differentiated between those that require medical expertise and those that do not and federal funds are claimed accordingly. It is the position of the State that the direct work performed by nurses under the Public Health Outreach and Nursing Education (PHONE) and Lincoln-Lancaster County Health Department (LLCHD-MAC) contracts did require professional education and training in the field of medical care or appropriate medical practice and that the activities cited in the OIG's draft report as not requiring medical knowledge were incidental and did not comprise the bulk of the reimbursed activities. Specifically, the contracted SPMP performed the following activities during the contract period.

1. Acted as a liaison on the medical aspects of a program with providers and other agencies providing medical care.
2. Assessed the necessity for and adequacy of medical care and services provided.
3. Assessed, through case management activities, the necessity for and adequacy of medical care and services required by individual clients.

These activities were approved by the Center for Medicare and Medicaid Services (CMS) as appropriate for SPMP personnel involved in the administration of the Medicaid program in a Title XIX Financial management review guide prepared in June 1986 and were further reinforced by approval of enhanced match for similar contracted activity under Medicaid managed care.

In the course of completing SPMP activities, it is necessary for the SPMP to address such issues as health care coverage and transportation. Non-SPMP activities are intertwined in the SPMP activities of the contract but do not compose the majority of the SPMP time in carrying out the contract.

In addition, the SPMP has an established credibility as a professional with both the providers and clients leading to better outcomes for clients. Health care providers know the SPMP have been trained in confidentiality and understand the medical and clinical environment of their patients. The SPMP has the skills to assist the provider in supporting the provider's plan of care for the client, their patient. Clients have an underlying trust that the SPMP are medically trained and knowledgeable.

(We also point out that the audit amount of \$217,077 was calculated in two parts, first to reconcile the expenditure amount entered on the CMS-64 with the expenditure amount documented in the state accounting system and secondly to reduce the reconciled amount by 25%. The first step to adjust the CMS-64 entry to the appropriate expenditure level has been completed with the report filing for the quarter ending 6/30/2005.)

We question the OIG finding of operating costs ineligible for enhanced match and request further clarification. Operating costs that are expended in direct support of the position eligible for enhanced funding and are integral to the position function have been claimed at the enhanced match. We concur that amounts claimed for travel and training costs for personnel who do not meet SPMP requirements are ineligible for an enhanced match and will adjust the CMS-64 for the quarter ending 3/31/06 by \$7,499.

The 13,287 in delinking funds identified for the 3/31/03 quarter claim was erroneously categorized as an SPMP activity; an adjustment to correct this entry was made on the CMS-64 filing for the quarter ending 6/30/2005.

- **Recommendation C: work with CMS to resolve the \$619,219 set aside because the State agency improperly claimed personnel costs related to claims processing**

The OIG audit identified several expenditures that were incorrectly reported with SPMP activities on line 3 of the CMS-64. Amounts identified as claims processing are payments related to operation of Nebraska's mechanized claims processing and information retrieval system for Medicaid and as such are eligible for a match of 76% FFP on line 4a of the CMS-64. The expenses were miscategorized on the SPMP line, but this error had no material impact on the bottom-line amount of the federal fund claim. The audit disallowance of \$552,877 for claims processing, therefore, is ultimately unnecessary, but we will make an adjustment between lines 3 and 4a of the CMS-64 to record the expense properly. The managed care contract payment and the temporary personnel costs incorrectly listed as an SPMP expenditure should have been claimed at the standard rate of 60% FFP and the disallowances of \$60,403 and \$5,939, respectively, in enhanced federal funding are appropriate. These corrections will be made on the CMS-64 for the quarter ending March 31, 2008.

- **Recommendation D: develop and implement policies and procedures for claiming skilled professional medical personnel expenditures and monitoring payments**

We believe that errors identified through this audit resulted in large part from underlying conditions that existed during the audit period of Federal Fiscal Year 2003 that are no longer present. During that time period, the State of Nebraska was transitioning to a new accounting system and was experiencing a number of coding and documentation problems attendant to this transition; these problems have now been cleared up and the new system is functioning smoothly. SPMP staff of the Medical Services Division are now correctly identified for payroll purposes and procedures have been put in place to monitor contract expenditures and ensure the appropriate coding of expenses. In addition, the quarterly claiming review by regional office CMS personnel and their approval of our cost allocation plan provides another ongoing layer of oversight. We will continue to work with CMS on activities and procedures to further refine the process of claiming federal Medicaid funds eligible for SPMP reimbursement according to our approved cost allocation plan.

We respectfully suggest that this audit would have been of greater benefit had it been conducted in a more timely fashion. Since the audit period extended back to October 2002, it was in some cases difficult for us to provide access to the individuals OIG staff wanted to interview and recreate the organizational structure in place at that time. Many changes have taken place within HHSS and Medicaid in the intervening years, so the audit findings are not necessarily instructive in terms of our current operation.

Thank you for the opportunity to respond.

Sincerely,



Mary Steiner, Administrator  
Medical Service Division