DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of Inspector General

Washington, D.C. 20201

JUL 17 2008

TO: Kerry Weems
Acting Administrator
Centers for Medicare & Medicaid Services

FROM: Joseph E. Vengrin
Deputy Inspector General for Audit Services

SUBJECT: Review of Federal Medicaid Claims Made by Inpatient Substance Abuse Treatment Facilities in New Jersey (A-02-07-01005)

Attached is an advance copy of our final report on Federal Medicaid claims made by inpatient substance abuse treatment facilities in New Jersey. We will issue this report to the State within 5 business days.

Our objective was to determine whether the State properly claimed Federal Medicaid reimbursement for services provided by 30 inpatient substance abuse treatment facilities.

The State improperly claimed Federal Medicaid reimbursement for services to patients in the 30 facilities. All 30 facilities were either Institutions for Mental Diseases or they were not participating institutional Medicaid providers or accredited psychiatric facilities. As a result, the State improperly received $1,711,461 in Federal Medicaid funds.

The overpayment occurred because the State did not establish controls in its Medicaid Management Information System (MMIS) to designate the claims in question as federally nonparticipating. However, New Jersey Department of Human Services officials indicated that the State modified its MMIS on November 27, 2006, to designate procedure codes used by inpatient substance abuse treatment facilities to claim Medicaid reimbursement as State-only funding (federally nonparticipating).

We recommend that the State:

- refund $1,711,461 to the Federal Government,
- ensure that the controls established in its MMIS to designate claims from inpatient substance abuse treatment facilities as federally nonparticipating are properly working, and

- determine the amount of improper Federal Medicaid reimbursement claimed subsequent to our audit period and return these overpayments to the Federal Government.

In its comments on our draft report, the State concurred with our finding and recommendations.

If you have any questions or comments about this report, please do not hesitate to call me, or your staff may contact George M. Reeb, Assistant Inspector General for the Centers for Medicare & Medicaid Audits, at (410) 786-7104 or through email at George.Reeb@oig.hhs.gov or James P. Edert, Regional Inspector General for Audit Services, Region II, at (212) 264-4620 or through email at James.Edert@oig.hhs.gov. Please refer to report number A-02-07-01005.

Attachment

DEPARTMENT OF HEALTH & HUMAN SERVICES

Office Of Inspector General
Office Of Audit Services

Region II
Jacob K. Javits Federal Building
26 Federal Plaza
New York, NY 10278

JUL 21 2008

Report Number: A-02-07-01005

Jennifer Velez, Esq.
Commissioner
New Jersey Department of Human Services
222 South Warren Street
P.O. Box 700
Trenton, New Jersey 08625-0700

Dear Ms. Velez:

Enclosed is the U.S. Department of Health and Human Services (HHS), Office of Inspector General (OIG), final report entitled "Review of Federal Medicaid Claims Made by Inpatient Substance Abuse Treatment Facilities in New Jersey." We will forward a copy of this report 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 this 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.

Pursuant to the principles of the Freedom of Information Act, 5 U.S.C. § 552, as amended by Public Law 104-231, OIG reports generally are made available to the public to the extent the information is not subject to exemptions in the Act (45 CFR part 5). Accordingly, this report will be posted on the Internet at http://oig.hhs.gov.

If you have any questions or comments about this report, please do not hesitate to call me, or contact John Berbach, Audit Manager, at (518) 437-9390, extension 228, or through e-mail at John.Berbach@oig.hhs.gov. Please refer to report number A-02-07-01005 in all correspondence

Sincerely,

James P. Edert

James P. Edert
Regional Inspector General
for Audit Services

Enclosure

Direct Reply to HHS Action Official:

Ms. Jackie Garner, Consortium Administrator
Consortium for Medicaid and Children's Health Operations
Centers for Medicare & Medicaid Services
233 North Michigan Avenue, Suite 600
Chicago, Illinois 60601

Department of Health and Human Services

OFFICE OF INSPECTOR GENERAL

REVIEW OF FEDERAL MEDICAID CLAIMS MADE BY INPATIENT SUBSTANCE ABUSE TREATMENT FACILITIES IN NEW JERSEY

Daniel R. Levinson
Inspector General

July 2008
A-02-07-01005

Office of Inspector General

http://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.

EXECUTIVE SUMMARY

BACKGROUND

Section 1905(i) of the Social Security Act (the Act) defines an Institution for Mental Diseases (IMD) as a hospital, a nursing facility, or an other institution of more than 16 beds that is primarily engaged in providing diagnosis, treatment, or care of persons with mental diseases. Pursuant to section 1905(a) of the Act, Federal Medicaid funding does not cover any services to individuals under the age of 65 who are patients in an IMD except, at the option of the State, for inpatient psychiatric hospital services to individuals under the age of 21 and in some cases under the age of 22. Section 1905(h) defines the term "inpatient psychiatric hospital services for individuals under age 21" as inpatient services that are provided in an institution that is a psychiatric hospital or in another inpatient setting specified in regulations.

New Jersey's Medicaid State plan covers services to Medicaid recipients age 65 or older who are patients in an IMD. The State plan also covers inpatient psychiatric hospital services for individuals under the age of 21 and in some cases under the age of 22 who are patients in a psychiatric hospital or a psychiatric residential treatment center accredited by the Joint Commission on Accreditation of Health Care Organizations or other accrediting organization in accordance with Medicaid regulations at 42 CFR § 441.151. However, the State plan does not cover services to individuals between the ages of 22 and 64 who are patients in an IMD. The State plan also does not cover inpatient substance abuse treatment services furnished by facilities that are not participating institutional Medicaid providers or accredited psychiatric facilities. Federal Medicaid funds claimed for services not covered by the State plan are unallowable and must be refunded.

Our audit period covered January 1, 2002, through December 31, 2006.

OBJECTIVE

Our objective was to determine whether the State properly claimed Federal Medicaid reimbursement for services provided by 30 inpatient substance abuse treatment facilities.

SUMMARY OF FINDING

The State improperly claimed Federal Medicaid reimbursement for services to patients in 30 inpatient substance abuse treatment facilities. All 30 facilities were either IMDs or they were not participating institutional Medicaid providers or accredited psychiatric facilities. As a result, the State improperly received $1,711,461 in Federal Medicaid funds.

Of our 30 sample claims, 16 were for individuals between the ages of 22 and 64 in inpatient substance abuse treatment facilities that were IMDs. Federal Medicaid funding is not available for any services to individuals between the ages of 22 and 64 who are patients in an IMD. The remaining 14 sample claims were for inpatient services provided by facilities that were not Medicaid institutional providers or were not accredited psychiatric facilities. As such, these

services were not covered under New Jersey's Medicaid State plan. Medicaid does not pay for any item or service not covered under an approved State plan.

The overpayment occurred because the State did not establish controls in its Medicaid Management Information System (MMIS) to designate the claims in question as federally nonparticipating. However, in an October 9, 2007, e-mail, New Jersey Department of Human Services officials indicated that the State modified its MMIS on November 27, 2006, to designate procedure codes used by inpatient substance abuse treatment facilities to claim Medicaid reimbursement as State-only funding (federally nonparticipating). We did not verify the effectiveness of these MMIS controls as part of this audit. In the same e-mail, State officials agreed to refund the improper Federal Medicaid claims we identified in our audit.

RECOMMENDATIONS

We recommend that the State:

- refund $1,711,461 to the Federal Government,

- ensure that the controls established in its MMIS to designate claims from inpatient substance abuse treatment facilities as federally nonparticipating are properly working, and

- determine the amount of improper Federal Medicaid reimbursement claimed subsequent to our audit period and return these overpayments to the Federal Government.

STATE COMMENTS

In its comments on our draft report, the State concurred with our finding and recommendations. The State's comments are included in their entirety as the Appendix.

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STATE COMMENTS

INTRODUCTION

BACKGROUND

Medicaid Program

Pursuant to Title XIX of the Social Security Act (the Act), the Medicaid program provides medical assistance to 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 applicable Federal requirements.

New Jersey's Medicaid Program

In New Jersey, the Department of Human Services is the State agency responsible for operating the Medicaid program. Within the Department of Human Services, the Division of Medical Assistance and Health Services administers the Medicaid program. The Department of Human Services uses the Medicaid Management Information System (MMIS), a computerized payment and information reporting system, to process and pay Medicaid claims. The State assigns procedure codes to providers for them to claim Medicaid reimbursement via the MMIS. The Federal Government's share of costs is known as the Federal medical assistance percentage (FMAP). During our audit period (January 1, 2002, through December 31, 2006), the FMAP in New Jersey was 50 or 52.95 percent.[1]

Federal Requirements

Section 1905(i) of the Act defines an Institution for Mental Diseases (IMD) as a hospital, a nursing facility, or an other institution of more than 16 beds that is primarily engaged in providing diagnosis, treatment, or care of persons with mental diseases. In accordance with section 1905(a) of the Act, Federal Medicaid funding does not cover any services to individuals under the age of 65 who are patients in an IMD except, at the option of the State, for inpatient psychiatric hospital services provided in an accredited facility to beneficiaries under the age of 21 and in some cases under the age of 22.[2] Under section 4390 (E) of CMS's "State Medicaid Manual," facilities with more than 16 beds that are providing alcoholism and substance abuse treatment to the majority of their patients are IMDs.

[1]The FMAP was 50 percent from January 1, 2002, through March 31, 2003; 52.95 percent from April 1, 2003, through June 30, 2004; and 50 percent from July 1, 2004, through December 31, 2006.

[2]Federal regulations (42 CFR § 441.151(a)(3)) state that inpatient psychiatric services for individuals under age 21 must be provided before the individual reaches age 21 or, if the individual was receiving the services immediately before he or she reached age 21, before the earlier of the following: the date the individual no longer requires the services or the date the individual reaches age 22.

Section 1905(h) of the Act defines the term "inpatient psychiatric hospital services for individuals under age 21" to mean inpatient services that are provided in an institution that is a psychiatric hospital or in another inpatient setting specified in regulations. Implementing regulations at 42 CFR § 441.151 establish the requirements for a psychiatric hospital or residential treatment facility that may provide these services to individuals under age 21/22.[3] Federal financial participation (FFP) is not available in the cost of services furnished to these individuals in facilities that do not conform to the regulatory requirements.

In addition, FFP is not available in the cost of room and board unless the facility is a participating institutional provider in the Medicaid program. Under section 1905(a) of the Act, inpatient services may be covered by Medicaid in only certain facilities: a hospital (42 CFR § 440.10), nursing facility (42 CFR §440.155), intermediate care facility for the mentally retarded (42 CFR §440.150), or a psychiatric facility that meets the requirements of 42 CFR § 441.151.

New Jersey's Medicaid State Plan

New Jersey's Medicaid State plan covers services to individuals age 65 or older who are patients in an IMD. The State plan also covers inpatient psychiatric hospital services for individuals under the age of 21/22 who are patients in a psychiatric hospital or accredited psychiatric residential treatment facility. However, the State plan does not cover services to individuals between the ages of 22 and 64 who are patients in an IMD. The State plan also does not cover inpatient services furnished by facilities that are not participating institutional Medicaid providers. Federal Medicaid funds claimed for services not covered under the State plan are unallowable and must be refunded.[4]

OBJECTIVE, SCOPE, AND METHODOLOGY

Objective

Our objective was to determine whether the State properly claimed Federal Medicaid reimbursement for services provided by 30 inpatient substance abuse treatment facilities.

Scope

Our audit period covered January 1, 2002, through December 31, 2006. We did not review the overall internal control structure of the State or the Medicaid program. Rather, we reviewed only the internal controls that pertained directly to our objective.

[3]Federal regulations (42 CFR § 441.151(a)(2)) state that inpatient psychiatric services for individuals under age 21 must be provided by a psychiatric hospital or an inpatient psychiatric program in a hospital accredited by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) or by a psychiatric facility that is not a hospital and is accredited by JCAHO, the Commission on Accreditation of Rehabilitation Facilities (CARF), the Council on Accreditation of Services for Families and Children (CASFC), or any other accrediting organization with comparable standards that is recognized by the State.

[4]Pursuant to section 1903(i)(17) of the Act, payment shall not be made for any item or service not covered under a State plan.

We conducted fieldwork at the New Jersey Division of Medical Assistance and Health Services in Trenton, New Jersey; at the State MMIS fiscal agent in Trenton, New Jersey; and at inpatient substance abuse treatment facilities throughout the State.

Methodology

To accomplish our objective, we:

- reviewed applicable Federal and State laws, regulations, and guidance, as well as the New Jersey Medicaid State plan;

- held discussions with State officials to identify State policies, procedures, and guidance;

- used computer applications to identify 3,880 Medicaid claims made by 30 inpatient substance abuse treatment facilities totaling $3,449,137 ($1,763,094 Federal share);

- reviewed Medicaid enrollment files for the 30 facilities and conducted site visits to determine if they were IMDs, accredited (by JCAHO, CARF, CASFC, or any other accrediting organization), or institutional Medicaid providers under the State plan, as well as to review their Medicaid claiming procedures;

- adjusted our sample frame of 3,880 claims by eliminating 105 claims for patients under age 22 from eight facilities that were accredited by JCAHO or CARF;

- determined that our population contained 3,775 claims submitted by 30 inpatient substance abuse treatment facilities totaling $3,347,369 in Medicaid reimbursement ($1,711,461 Federal share);

- selected a simple random sample of 30 claims from the population of 3,775 claims; and

- determined through site visits to the inpatient substance abuse treatment facilities that the 30 sample claims were for beneficiaries who were patients in an IMD who were under the age of 65 or, if the facility was accredited by JCAHO or CARF, were from the ages of 22 through 64; or were in a facility that was not a participating institutional Medicaid provider.[5]

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 finding and conclusions based on our audit objective.

[5]Based on this determination, we estimated that the entire population of Medicaid claims were improperly claimed for Federal Medicaid reimbursement.

FINDING AND RECOMMENDATIONS

The State improperly claimed Federal Medicaid reimbursement for services to beneficiaries in 30 inpatient substance abuse treatment facilities. All 30 facilities were either IMDs or they were not participating institutional Medicaid providers or accredited psychiatric facilities. The unallowable claims occurred because the State did not establish controls in its MMIS to designate those claims as federally nonparticipating. As a result, the State improperly received $1,711,461 in Federal Medicaid funds.

IMPROPER CLAIMS

Our sample of 30 claims showed that 16 of the claims were for beneficiaries between the ages of 22 and 64 in inpatient substance abuse treatment facilities that were IMDs. Pursuant to section 1905(a) of the Act, Federal Medicaid funding is not available for any services to individuals under the age of 65 who are patients in an IMD except for inpatient psychiatric hospital services to individuals under the age of 21/22. The remaining 14 sample claims were for inpatient services provided by facilities that were not participating institutional Medicaid providers pursuant to section 1905(a) or accredited psychiatric facilities pursuant to section 1905(h). As such, these services were not covered under New Jersey's approved Medicaid State plan. Payment claimed for services not covered under the approved State plan is not considered to be medical assistance and constitutes an overpayment that must be adjusted. Pursuant to section 1903(i)(17) of the Act, Medicaid will not pay for any item or service not covered under an approved State plan.

In an October 9, 2007, e-mail to the Office of the Inspector General, State officials agreed to refund the improper Federal Medicaid claims we identified in our audit.

CAUSE OF THE UNALLOWABLE CLAIMS

The unallowable claims occurred because the State did not establish controls in its MMIS to designate the claims in question as federally nonparticipating. However, in its October 9, 2007, e-mail to the Office of the Inspector General, State officials said that the State modified its MMIS on November 27, 2006, to designate the procedure codes used by inpatient substance abuse treatment facilities to claim Medicaid reimbursement as State-only funding (federally nonparticipating). We did not verify the effectiveness of these MMIS controls as part of this audit.

RECOMMENDATIONS

We recommend that the State:

- refund $1,711,461 to the Federal Government;

- ensure that the controls established in its MMIS to designate claims from inpatient substance abuse treatment facilities as federally nonparticipating are properly working; and

- determine the amount of improper Federal Medicaid reimbursement claimed subsequent to our audit period and return these overpayments to the Federal Government.

STATE COMMENTS

In its comments on our draft report, the State concurred with our finding and recommendations. The State's comments are included in their entirety as the Appendix.

APPENDIX

State of New Jersey
DEPARTMENT OF HUMAN SERVICES
DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES
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JENNIFER VELEZ
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JOHN R. GUHL
Director

May 12, 2008

James P. Edert
Regional Inspector General for Audit Services
Department of Health and Human Services
Office of Inspector General
Office of Audit Services
Region II
Jacob K. Javits Federal Building – Room 3900
New York, NY 10278

Report Number A-02-07-01005

Dear Mr. Edert:

This is in response to the Department of Health and Human Services, Office of the Inspector General's (OIG) draft audit report entitled "Review of Federal Medicaid Claims Made by Inpatient Substance Abuse Treatment Facilities in New Jersey" dated March 13, 2008.

The audit report contains one finding and three recommendations. The report makes the finding that New Jersey improperly claimed Federal Medicaid reimbursement for services to patients in 30 inpatient substance abuse treatment facilities. All 30 facilities were either IMD's or they were not participating institutional Medicaid providers or accredited psychiatric facilities. As a result, the State improperly received $1,711,461 in Federal Medicaid funds.

The State agrees with the finding that it improperly received $1,711,461 in Federal Medicaid funds.

In summary, the recommendations contained in the report and our responses are provided below:

1. New Jersey should refund $1,711,461 to the Federal Government.

New Jersey is reviewing the details of this audit finding and will make the appropriate adjustment on the CMS-64 report.

2. New Jersey should ensure that the controls established in its MMIS to designate claims from inpatient substance abuse treatment facilities as federally nonparticipating are properly working.

New Jersey has modified the claims processing system to conform to the auditor's recommendation and will monitor the claims from inpatient substance abuse treatment facilities to ensure they are federally nonparticipating.

3. New Jersey should determine the amount of improper Federal Medicaid reimbursement claimed subsequent to our audit period and return these overpayments to the Federal Government.

New Jersey will identify and refund any amount of improper Federal Medicaid reimbursement claimed subsequent to the audit period.

The opportunity to review and comment on this draft report is greatly appreciated. If you have any questions or require additional information, please contact me or David Lowenthal at 609-588-7933.

Sincerely,

John R. Guhl
Director

JRG:L
c: Jennifer Velez
David Lowenthal