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

April 12,2004

Report Number: A-07-02-03027

Mr. Kevin W. Concannon
Director
Iowa Department of Human Services
Hoover State Office Building, Fifth Floor
1305 East Walnut
Des Moines, Iowa 50319

Dear Mr. Concannon:

Enclosed are two copies of the U.S. Department of Health and Human Services (HHS), Office of Inspector General final report entitled *"Title XXI Federal Financial Participation Claimed for Rehabilitative Treatment Services State Children's Health Insurance Program (SCHIP)."* A copy of this report will be forwarded to the action official noted below for review and any action deemed necessary.

Final determination as to actions taken on all matters reported will be made by the HHS action official named below. 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.

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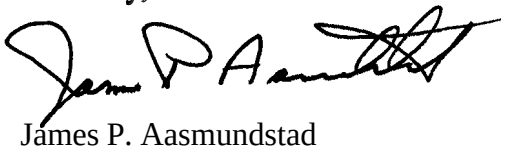
If you have any questions or comments about this report, please do not hesitate to call me or Gregory Tambke, Audit Manager at (573) 893-8338, ext. 30 or through e-mail at gtambke@oig.hhs.gov. To facilitate identification, please refer to report number A-07-02-03027 in all correspondence.

Sincerely,



James P. Aasmundstad
Regional Inspector General
for Audit Services, Region VII

Enclosures – as stated

Directly Reply to HHS Action Official:

Joe Tilghman, Regional Administrator
Midwestern Consortium Administrator
Centers for Medicare & Medicaid Services
601 East 12th Street, Room 235
Kansas City, Missouri 64106-2808

Department of Health and Human Services

OFFICE OF INSPECTOR GENERAL

TITLE XXI FEDERAL FINANCIAL PARTICIPATION CLAIMED FOR REHABILITATIVE TREATMENT SERVICES STATE CHILDREN'S HEALTH INSURANCE PROGRAM (SCHIP)

APRIL 2004
A-07-02-03027

Office of Inspector General

http://oig.hhs.gov

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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 awarding agency will make final determination on these matters.

EXECUTIVE SUMMARY

Objective

The objective of this review was to determine whether the amounts claimed by the Iowa Department of Human Services (the State) for Rehabilitative Treatment Services met Title XXI reimbursement requirements for Federal financial participation (FFP). Our audit period was October 1, 2000 through September 30, 2001, Federal Fiscal Year (FFY) 2001.

Summary of Findings

Criteria

We identified findings that were not in compliance with applicable criteria including the Iowa State Plan, the Iowa Administrative Code and the Centers for Medicare and Medicaid Services report.

Condition

Of the 100 RTS claims we reviewed, 38 were found to contain errors, and 16 contained multiple errors. We identified the following:

- 24 claims in which the services provided were non-rehabilitative in nature
- 12 claims where the clients did not receive direct patient care
- 9 claims that lacked documentation to properly support billed services
- 7 claims that had day treatment services
- 2 claims where the required amount of therapy and counseling services was not met

Effect

We found that the 38 RTS sample claims did not meet the required criteria for Medicaid reimbursement, and are therefore, not allowable.

Recommendations

We recommend that the State:

- Return to the Federal Government $115,508 of the Medicaid Title XXI FFP claimed for the RTS for FFY 2001.

- Strengthen policies and procedures to ensure that Medicaid payments are based on services directed exclusively to the rehabilitative treatment needs of the child as defined in the State plan and are provided in compliance with State and Federal regulations.

Auditee's Comments

The State partially agreed with our report. In the response to the draft report, the State disagreed with the staff qualifications, authorization errors, non-family members, day treatment services and staffing ratio findings in their entirety. They concurred in part with our findings for non-rehabilitative services, lack of direct patient care and documentation errors. The State agreed with the deficiency found for therapy and counseling services. Additionally, the State requested we revise the report and recovery request to the extent of the claims they disputed.

Office of Inspector General's Response

We do not agree with the State in regard to the claims they disputed for non-rehabilitative services, lack of direct patient care and day treatment services. We modified the final report and recovery request to reflect the removal of the findings for authorization errors, non-family members and staffing ratios. However, we still view the staff qualification finding as a significant issue, and while we did not include it as an error for purposes of calculating the overpayment, we included it under the "Other Matters" section of the report.

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INTRODUCTION

Background

The Balanced Budget Act of 1997 established the State Children's Health Insurance Program (SCHIP) under Title XXI of the Social Security Act. SCHIP is designed to assist in the cost of furnishing child health assistance to uninsured, low-income children by providing participating States with Federal funding up to an annual aggregate cap. States are required to administer Title XXI programs under a State plan approved by the Centers for Medicare and Medicaid Services (CMS). The Iowa Department of Health and Human Services (the State) was the single State agency responsible for administering SCHIP. In administering SCHIP plans, States have three options: 1) design a separate children's health insurance program, 2) expand Medicaid eligibility, or 3) a combination of the two strategies. In Iowa, a combination of the two programs was established. The State's separate children's health insurance program (non-Medicaid) is referred to as Healthy and Well Kids in Iowa (HAWK-I) and Iowa's Medicaid Expansion is called M-SCHIP. Rehabilitative Treatment Services (RTS) under SCHIP are funded through Medicaid Expansion and are reimbursed at the enhanced Title XXI Federal financial participation (FFP) rate.

Federal regulations define rehabilitation services as any medical or remedial services recommended by a physician or other licensed practitioner of the healing arts within the scope of their practice under State law, for the maximum reduction of physical or mental disability and restoration of an individual to the best possible functional level. Rehabilitative Treatment Services (RTS) for Medicaid recipients age 20 or under are described in the Iowa State Plan under the Early and Periodic Screening, Diagnosis and Treatment Services (EPSDT). RTS are comprised of four distinct programs, which are: Family-Centered Services, Family Preservation, Family Foster Care, and Group Care.

The State plan requires that all RTS must:

- Be directed toward treatment of the Medicaid-eligible child,
- Be determined medically necessary and reasonable, and
- Be a specific and effective treatment for a child's medical or disabling condition, which meets accepted standards of medical and psychological practice.

In 1994, CMS initiated a review of the Iowa RTS program, based on a combination of factors including the non-traditional Medicaid services included in the program and the significant cost of the program. The CMS Final Report on the Iowa RTS program (issued March 3, 1996) found:

- Documentation of rehabilitation services delivered to ineligible individuals.

- Some RTS program services billed to Medicaid were not rehabilitative in nature.

- Case files did not contain a medical diagnosis, which raised the question of medical necessity.

- Claims for some services had no documented support.

In response to the CMS report, the State indicated that certain corrective actions would be taken. Subsequently, CMS requested that the Office of Inspector General conduct an audit of the Iowa Rehabilitative Treatment Services to ensure that the State had procedures to safeguard against unnecessary or inappropriate use of Medicaid services and against excess payments.

OBJECTIVES, SCOPE, AND METHODOLOGY

Objectives

The overall objectives of our RTS reviews were to determine: (1) whether RTS amounts claimed by the State for FFY 2001 met Medicaid Title XIX and Title XXI reimbursement requirements for FFP, and (2) whether the State's RTS Program met eligibility requirements for Medicaid FFP. We addressed each of the RTS programs under Title XIX in a separate report. Additionally, our second objective required a separate report to address issues that pertained to the RTS programs as a whole.

Our objective for this review (report number A-07-02-03027) was to determine whether the amounts claimed by the State for RTS met Title XXI reimbursement requirements for FFP for FFY 2001.

Scope

Our audit period was October 1, 2000 through September 30, 2001 (FFY 2001). Audit fieldwork was performed during 2002 at the State offices in Des Moines, Iowa and at RTS provider locations across Iowa and in Illinois. Additional audit work was performed at our Des Moines, Iowa field office. During our audit, we did not review the overall internal control structure of the State, or of the Medicaid program. Rather, our internal control review was limited to those controls pertaining directly to the RTS program.

Methodology

To accomplish our audit objective, we:

- Selected a simple random sample of 100 claims from a population of 3,236 RTS claims for FFY 2001. The 3,236 claims totaled $1,188,971 ($878,293 FFP). The 100 random sample claims totaled $28,362 ($20,951 FFP) and were from 37 RTS providers. The 100 sample claims were comprised of three RTS programs as

follows: 89 claims from the Family-Centered Program, 6 claims from the Family Foster Care Program and 5 claims from the Group Care Program. See Appendix B.

- Reviewed Federal and State laws, regulations and guidelines pertaining to the Medicaid program and RTS.

- Held discussions with: CMS regional office personnel; State officials; and contractors responsible for the authorization of RTS (Review Organization), certification of RTS providers (Certification Team), and transmission of RTS claims data (Fiscal Agent).

- Obtained data files of all RTS claims for FFY 2001, and reconciled the claim amounts to the CMS-64 reports that were submitted to CMS to claim FFP for FFY 2001.

- Obtained and analyzed supporting documentation from each of the 37 providers in our sample.

Our review was conducted in accordance with generally accepted government auditing standards.

FINDINGS AND RECOMMENDATIONS

We determined that $115,508 of the $878,293 Medicaid Title XXI FFP claimed by the State for FFY 2001 was unallowable. We found errors that were not in compliance with applicable criteria, including the Iowa State Plan and the Iowa Administrative Code. We identified errors in 38 of the 100 sample claims and 16 of those contained multiple errors. However, we never questioned more than 100 percent of each claim. We summarized the errors under the following categories:

A. Non-Rehabilitative Services

B. Lack of Direct Patient Care

C. Documentation Errors

D. Day Treatment

E. Therapy and Counseling Services

The sample claims and errors are summarized in Appendix A. The majority of the errors identified for the three RTS programs represented in our sample were reported together, instead of independently, as the same error conditions occurred across all the programs. However, Day Treatment Services were found only in the Family-Centered Program, and Therapy and Counseling Services were limited to the Group Care Program.

A. Non-Rehabilitative Services

Criteria

The CMS report stated that habilitative, social, educational, vocational, and/or leisure services delivered under the RTS program are not reimbursable under the Medicaid Program. The Iowa Administrative Code Section 441 Chapter 185.1 defined "nonrehabilitative" treatment needs as protective, supportive, or preventative, and "nonrehabilitative" services as those directed toward a family member to help them meet the treatment, safety, or permanency needs of a child. CMS also reported that services aimed at teaching or enhancing parenting skills and general age-appropriate training are not covered rehabilitation services, regardless of how the specific needs of the child are documented in the case files.

Condition and Cause

We identified 24 of the 100 sample claims with services not considered rehabilitative treatment of the client. We found services teaching parents about general age-appropriate discipline, which covered topics such as enforcing rules and using consequences. One case file addressed general parenting education, where the worker taught the correct way to bottle-feed a baby. In addition, services focused on the parent's issues such as handling stress, custody battles, sale of the family home, marital problems, as well as alcohol related issues. Other non-rehabilitative services included educating a client on filling out job applications, personal hygiene, and recreational services where the worker played basketball with the client.

Effect

The 24 claims are not allowable for Medicaid reimbursement, as the services provided were not rehabilitative services as defined by the Iowa Administrative Code and the CMS report.

B. Lack of Direct Patient Care

Criteria

The Iowa State Plan under EPSDT required all RTS to be directed toward the treatment of the Medicaid-eligible child and be a specific and effective treatment for the child's condition. Additionally, the CMS report stated that Medicaid services must involve *direct* patient care, and be directed exclusively to the effective treatment of the Medicaid-eligible individual in order to qualify for Medicaid reimbursement.

Condition and Cause

We concluded there was a lack of direct patient care in 12 of the 100 sample claims. For each of the claims, the client was not present or involved in the treatment service, and the

services were not directed at the effective treatment of the client. During our review we found documentation indicating that the State planned to implement a new policy to require the client's presence during RTS, but this policy was never implemented.

Effect

The 12 claims are not allowable for Medicaid reimbursement, as the services provided did not involve direct patient care as defined by the Iowa State Plan and the CMS report.

C. Documentation Errors

Criteria

The Iowa Administrative Code Section 441 Chapter 185.10 required that documentation of billed services must include the date, amount of time, setting, service provider, the specific services rendered, the relationship to the treatment plan, and updates describing the client's progress.

Condition and Cause

We found 9 of the 100 sample claims failed to properly support the billed services. We identified the following documentation and authorization errors.

DOCUMENTATION AND AUTHORIZATION ERRORS	NUMBER OF CLAIMS
Missing Documentation	6
Provider of Service Unknown	2
Time of Service Unknown	1

Effect

The nine claims are not allowable for Medicaid reimbursement, as the documentation requirements for billed services set forth by the Iowa Administrative Code were not met.

D. Day Treatment

Criteria

The Iowa State Plan, Limitations on Service, Section 4.b required, "*Under EPSDT authority, day treatment services for persons aged 20 or under shall be provided by hospitals with outpatient programs, psychiatric medical institutions for children, and community mental health centers*." Additionally, The Rehabilitative Treatment and Supportive Services Provider Handbook stated, "*Rehabilitative or nonrehabilitative treatment services cannot be paid for when a child or youth is in a psychiatric medical institution for children* (*PMIC*), *or other medical program, such as partial hospitalization or day treatment*."

Condition and Cause

We determined that 7 of the 100 sample claims were for services provided in conjunction with day treatment programs. We found that four of the seven claims had Family-Centered group services provided in a day treatment program. In addition, the other three claims were found to have individualized Family-Centered services provided when the client was attending a day treatment program.

Effect

The seven claims are not allowable for Medicaid reimbursement, as the services were provided in conjunction with day treatment programs. The services did not meet the requirements set forth in the State plan and The Rehabilitative Treatment and Supportive Services Handbook.

E. Therapy and Counseling Services

Criteria

The Iowa Administrative Code Section 441 Chapter 185.83 set forth the core requirements for therapy and counseling services for each level of RTS Group Care services. The minimum amount of therapy and counseling services must be met at the time the claim is submitted for payment. Additionally, the Iowa Administrative Code Section 441 Chapter 185.84 required that RTS additional therapy and counseling services for a child in a group care facility may not be billed until the core therapy and counseling requirements have been met.

Condition/Cause

We determined two of the 100 sample claims had not met the therapy and counseling core requirements at the time that services were billed.

Effect

The two claims are not allowable for Medicaid reimbursement, as the required minimum of therapy and counseling services was not met as mandated by the Iowa Administrative Code and the State plan.

Recommendations:

We recommend that the State:

- Return to the Federal Government $115,508 Medicaid Title XXI FFP claimed for RTS for FFY 2001.

- Strengthen policies and procedures to ensure that Medicaid payments are based on services directed exclusively to the rehabilitative treatment needs of the child as defined in the State plan and are provided in compliance with State and Federal regulations.

OTHER MATTERS

We identified the following issue that although considered significant, was not independently counted as an error in our review of the 100 sample claims.

Staff Qualifications

The Iowa Administrative Code Section 441 Chapter 79.9 required that services covered by Medicaid should be within the scope of the licensure of the provider. The Iowa Code Section 154C.1 "Practice of Social Work" identified three categories of social work licensure: (1) Bachelor social workers (LBSW), (2) Master social workers (LMSW), and (3) Independent social workers (LISW). Only Licensed Master Social Workers and Licensed Independent Social Workers are listed as qualified to provide evaluation of symptoms and behaviors; strengths and weaknesses; diagnosis and treatment; psychosocial therapy with individuals, couples, families, and groups; establishment of treatment goals and monitoring progress etc. According to the Iowa Board of Social Work Examiners, Bachelor level social workers may not provide therapy "…*in any setting*…."

We found 39 of the 100 sample claims had staff that appeared to lack the qualifications to develop treatment goals or provide therapy. Therapy and counseling is one of the core services for the Family-Centered, Family Foster Care and Group Care programs, and development of treatment goals is a required part of therapy and counseling services. Our review indicated that at a minimum, individuals providing therapy and developing treatment goals should be Licensed Master Social Workers, Licensed Independent Social Workers, or the equivalent.

AUDITEE'S COMMENTS

The State did not concur with all of our findings and recommendations. Their comments are summarized below and included in their entirety as Appendix C.

1) Timing of the Audit-Impact of DHS Audits and Recoupment

The State asserted the errors we identified, with few exceptions, are routinely reviewed and recoupments made during the State's audit process. They indicated significant overpayments are recouped as a result of their audits. Furthermore, they contended that the overlap of the State and Federal audit periods resulted in an overstatement of the error amounts, as the findings did not reflect amounts recouped by the State. The State requested the error amounts be adjusted to reflect FFP already returned to the Federal Government.

2) Staff Qualifications

The State did not concur with the 39 claims found to be in error for staff qualifications. They contended that the finding was a result of our misinterpretation of the terminology "therapy and counseling," which is used to depict services provided under the RTS programs. In addition, they asserted that we incorrectly applied the State Social Work Board requirements for therapy, development of treatment goals (a component of therapy and counseling services), and psychosocial evaluation services to RTS. Furthermore, the State responded that they relied upon the providers to deliver services within the scope of their practice and therefore, made this assumption absent of evidence to the contrary. They indicated their position was supported by State statutes and regulations, which did not require those providing therapy and counseling services to be Licensed Master or Independent Social Workers.

3) Non-Rehabilitative Services

The State disagreed with 14 of the 24 sample claims identified as non-rehabilitative services provided to clients. They asserted these services were rehabilitative services provided to the clients for these claims.

4) Lack of Direct Patient Care

The State disagreed with 8 of the 12 claims identified as not having services that involved direct patient care. They asserted that the client does not need to be present during treatment services, if the services are directed at the client's needs. They presented a portion of a letter to CMS, in which the State contended that CMS said they would be in compliance if the client were not in attendance during services, as long as the services were directed toward the treatment of the client.

5) Documentation and Authorization Errors

The State cited the documentation requirements for billed services from the Iowa Administrative Code and contested four claims for expired authorizations and one claim for place of service unknown.

6) Non-Family Members Present

The State did not agree that the presence of non-family members during treatment sessions constituted an error. They stated there is no State or Federal law that precludes others from being present during services. They cited the Iowa Administrative Code, which allows services to be directed toward the client and shall include family members. They maintained that the decision of who should be present during services is determined on a case-by-case basis and all services are directed at meeting the client's needs, regardless of who is present.

7) Day Treatment Services

The State disagreed with the finding that day treatment services were provided to RTS clients. They indicated these services were the standard core services provided in the Family-Centered Program and did not fall under EPSDT authority for day treatment services as stated in the Iowa State Plan. In addition, they asserted the State should have no responsibility if some providers used "colloquial terminology" to document RTS services as day treatment.

8) Staffing Ratios

The State did not concur that staffing ratios were not met during therapy and counseling group care services. They stated we interpreted that the ratios required for prime programming time were inclusive of group care therapy and counseling sessions. They contested that there is no requirement that qualified staff actively participate in group sessions to meet the required ratios. Additionally, they indicated the Department of Inspections and Appeals examines staffing ratios as part of its licensing reviews.

9) Therapy and Counseling Services

The State agreed with our finding in its entirety.

OIG'S RESPONSE

1) Timing of the Audit-Impact of DHS Audits and Recoupment

Our review of the State's billing audit worksheets indicated their audits were limited to reviewing the documentation requirements for billed services stated in the Iowa Administrative Code and determining if the units billed for services were documented in the client's case files. We did not find the State audit process to be inclusive of reviewing for non-rehabilitative services or determining if services were directed toward the treatment of the Medicaid-eligible client.

The State's recoupments for the RTS Program for 2001 were only 0.38% of the total program cost. Therefore, we found the recoupments not to be significant, even considering the overlap of the State and Federal audit periods. Consequently, we determined that any overstatement of our findings due to the overlap was immaterial.

2) Staff Qualifications

We modified the report and recovery request to reflect the removal of staff qualifications as an independent error. However, we still consider this a significant issue and have reported it under the "Other Matters" section.

3) Non-Rehabilitative Services

We do not agree that the 14 claims disputed by the State involved services that were rehabilitative in nature. These services did not meet the requirements of the Iowa State Plan, which stated, "…all RTS must be directed toward treatment of the Medicaid-eligible child, be determined medically necessary and reasonable, and be a specific and effective treatment for a child's medical or disabling condition, which meets accepted standards of medical and psychological practice."

4) Lack of Direct Patient Care

We acknowledge the State's position that treatment services can be provided and directed toward the client's needs in their absence. However, we did not find that the eight claims questioned provided services directed toward the client's treatment. In addition, we identified claims where the client was present during services, but the services unsuccessfully addressed the client's needs.

5) Documentation and Authorization Errors

We concur with the State for the four claims contested for expired authorization and the one claim questioned for place of service unknown. The final report and recovery request have been modified to reflect the removal of these findings.

6) Non-Family Members Present

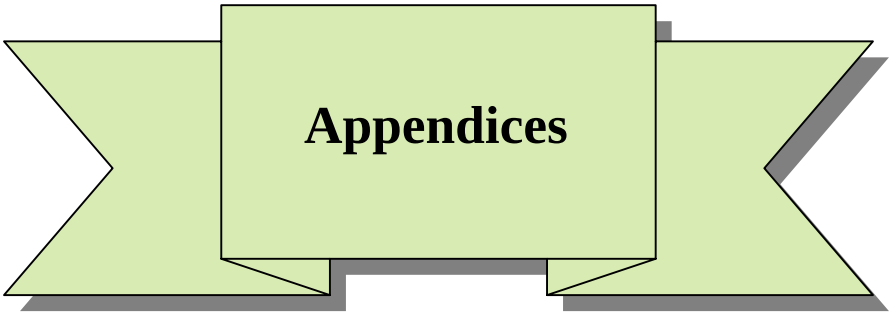
We agreed with the State's position on this issue. The report and recovery request were modified to reflect the removal of this error.

7) Day Treatment Services

The Iowa State Plan required day treatment services to be provided by hospitals with outpatient programs, psychiatric institutions for children or community mental health centers. The RTS providers that delivered the services were not the type of facilities required by the State plan. We found documentation from the provider's case notes stating the services were day treatment. Additionally, we found instances where the *Referral of Client for Rehabilitative and Supportive Services* (Form 3055) were addressed to day treatment programs, and in the written portion of the authorization referred to clients beginning day treatment services at these facilities. This indicated the State was aware the providers considered their services to be day treatment. Therefore, we found these services were not the standard core Family-Centered services and did fall under EPSDT authority requirements as stated in the Iowa State Plan.

8) Staffing Ratios

We agreed with the State's position on this issue. The report and recovery request were modified to reflect the removal of this error.


Appendices

Appendix A
Schedule of Sample Items

						Error Conditions in Units of Service and Claim Dollars:								Therapy and Counseling Services	
Sample Order	* Service Code	Units Paid	Claim $ Paid	Units Disallowed	Claim $ Disallowed	Non-Rehabilitative Services Units	Non-Rehabilitative Services Claim $	Lack of Direct Care Units	Lack of Direct Care Claim $	Documentation Units	Documentation Claim $	Day Treatment Units	Day Treatment Claim $	Units	Claim $
1	A2	6	$ 226	0	$ -										
2	A2	20	$ 701	4	$ 140	4	$140	4	$140						
3	D1	27	$ 1,025	1	$ 38					1	38				
4	A1	7	$ 267	0	$ -										
5	A2	10	$ 380	0	$ -										
6	C1	7	$ 285	0	$ -										
7	A1	6	$ 229	6	$ 229	6	229								
8	C3	7	$ 345	1	$ 49	1	49								
9	D5	4	$ 119	2	$ 60									2	$60
10	A2	3	$ 139	3	$ 139					3	139				
11	D3	7	$ 592	7	$ 592					7	592				
12	A1	4	$ 179	0	$ -										
13	A1	7	$ 266	0	$ -										
14	A1	5	$ 151	0	$ -										
15	A2	22	$ 269	22	$ 269					22	269				
16	A1	9	$ 350	0	$ -										
17	A2	2	$ 76	0	$ -										
18	A1	2	$ 76	0	$ -										
19	A1	2	$ 94	0	$ -										
20	A2	6	$ 226	0	$ -										
21	A2	8	$ 332	2	$ 83	2	83	2	83						
22	A2	5	$ 132	0	$ -										
23	A1	1	$ 35	0	$ -										
24	C3	5	$ 246	0	$ -										
25	A1	7	$ 70	7	$ 70					7	70	7	$70		
26	A2	4	$ 132	0	$ -										
27	A2	4	$ 142	4	$ 142	4	142	1	35						
28	C1	3	$ 122	0	$ -										
29	A2	8	$ 268	1	$ 34	1	34	1	34						
30	A1	6	$ 252	6	$ 252							6	252		
31	A1	5	$ 197	5	$ 197					5	197				
32	A2	2	$ 67	0	$ -										
33	A1	2	$ 82	0	$ -										
34	A2	9	$ 336	0	$ -										
35	A2	7	$ 244	2	$ 70	2	70								
36	A1	3	$ 110	0	$ -										
37	A2	1	$ 33	0	$ -										
38	A2	12	$ 401	0	$ -										
39	A1	1	$ 50	0	$ -										
40	A2	35	$ 433	35	$ 433							35	433		
41	A1	8	$ 329	0	$ -										
42	A1	3	$ 114	0	$ -										
43	A2	4	$ 135	2	$ 68	2	68								
44	A2	4	$ 151	2	$ 75	2	75								
45	A2	4	$ 133	3	$ 99	3	99	3	99						
46	A1	3	$ 114	0	$ -										
47	A1	8	$ 311	0	$ -										
48	C2	3	$ 129	0	$ -										
49	A1	3	$ 119	0	$ -										
50	A2	2	$ 68	0	$ -										
51	A2	5	$ 186	5	$ 186	5	186	5	186						
52	A2	18	$ 744	3	$ 124	1	41			2	83				
53	A1	6	$ 238	0	$ -										
54	A1	3	$ 115	3	$ 115	3	115	1	38						
55	A1	3	$ 124	0	$ -										
56	A2	8	$ 318	0	$ -										
57	A2	9	$ 296	0	$ -										
58	A1	6	$ 227	0	$ -										

Appendix A
Schedule of Sample Items

						Error Conditions in Units of Service and Claim Dollars:								Therapy and Counseling Services	
Sample Order	* Service Code	Units Paid	Claim $ Paid	Units Disallowed	Claim $ Disallowed	Non-Rehabilitative Services Units	Non-Rehabilitative Services Claim $	Lack of Direct Care Units	Lack of Direct Care Claim $	Documentation Units	Documentation Claim $	Day Treatment Units	Day Treatment Claim $	Units	Claim $
59	A1	6	$ 229	0	$ -										
60	A1	7	$ 334	3	$ 143	3	$143	3	$143						
61	A2	4	$ 151	0	$ -										
62	A2	6	$ 193	0	$ -										
63	A1	17	$ 701	0	$ -										
64	A2	9	$ 325	0	$ -										
65	A1	4	$ 152	0	$ -										
66	A2	7	$ 295	7	$ 295	7	295	7	295						
67	A1	16	$ 605	2	$ 76	2	76								
68	A1	9	$ 379	5	$ 211	5	211	3	126						
69	A1	7	$ 300	0	$ -										
70	A1	10	$ 381	0	$ -										
71	A1	16	$ 674	3	$ 126	3	126								
72	D1	31	$ 1,781	31	$ 1,781					31	1781			2	$115
73	A1	2	$ 82	0	$ -										
74	A2	4	$ 177	0	$ -										
75	A2	8	$ 267	8	$ 267	8	267								
76	A1	9	$ 340	5	$ 189	4	151			1	38				
77	A1	11	$ 497	11	$ 497							11	$497		
78	A1	3	$ 130	1	$ 43	1	43								
79	A1	9	$ 343	0	$ -										
80	A2	2	$ 83	2	$ 83							2	83		
81	A2	3	$ 124	0	$ -										
82	A2	6	$ 192	0	$ -										
83	A2	4	$ 149	4	$ 149	4	149	2	75						
84	A2	13	$ 490	0	$ -										
85	A1	3	$ 118	0	$ -										
86	A1	3	$ 136	0	$ -										
87	A2	16	$ 514	16	$ 514							16	514		
88	A1	4	$ 181	0	$ -										
89	A1	4	$ 157	0	$ -										
90	A1	1	$ 38	0	$ -										
91	C2	2	$ 87	0	$ -										
92	A2	2	$ 89	0	$ -										
93	A1	4	$ 181	0	$ -										
94	D3	31	$ 2,813	0	$ -										
95	A1	4	$ 153	0	$ -										
96	A1	6	$ 100	3	$ 50	3	50								
97	A2	3	$ 112	3	$ 112	3	112	3	112						
98	A1	2	$ 82	0	$ -										
99	A1	14	$ 450	0	$ -										
100	A1	17	$ 248	17	$ 248							17	248		
Totals		730	$ 28,363	247	$ 8,248	79	$2,954	35	$1,366	79	$3,207	94	$2,097	4	$175
Total Claims with Error				38		24		12		9		7		2	

NOTE: Amounts and totals vary slightly from actual paid claim dollars due to immaterial rounding differences

* **Service Codes**

A=Family-Centered Program
C=Family Foster Program
1=Therapy and Counseling Services
2=Skill Development Services
3=Behavioral Management Services

D=Group Care Program
1=Community Residential
3=Enhanced Residential
5=Additional Therapy and Counseling Services

SAMPLE METHODOLOGY

Population:

The RTS SCHIP sampling population consisted of claims made by the State of Iowa for Title XXI Federal Financial Participation reimbursement during Federal Fiscal Year 2001 for payments made to providers. The claims totaled 3,236 for $1,188,971 with FFP equal to $878,293. The SCHIP claims cover all four RTS service programs and will be reviewed for their impact on the overall RTS program, not separately for each service program. SCHIP claims in RTS were as follows:

Family-Centered Services	2,718	$ 737,433
Family Preservation	21	$ 46,487
Family Foster Care	198	$ 37,756
Group Care	299	$ 367,295
Total SCHIP RTSS FFY 2001:	3,236	$ 1,188,971

Sample Unit:

The sample unit consisted of a claim for title XXI FFP reimbursement made by the State of Iowa during FFY 2001 for payments to RTS providers. Each claim is for one type of service received by an individual client for the month of service.

Sample Design:

A simple random sample was used to determine the results.

Sample Size:

A sample size of 100 units was used.

Estimation Methodology:

We used the Department of Health and Human Services, Office of Inspector General, Office of Audit Services Statistical Software Variable Unrestricted Appraisal program to project the amount of the unallowable claims based on the dollar value of sample units determined to be in error. The estimate of unallowable claims was reported using the "difference estimator" at the lower limit of the ninety percent two-sided confidence interval.

Sample Results:

The results of our review are as follows:

Sample Size	Value of Sample	Number of Non-Zero Errors	Value of Errors
100	$28,362	38	$8,248

Variable Projections:

	Claim Dollars	FFP Dollars
Point Estimate	$266,915	$197,170
Lower Limit	$156,366	$115,508
Upper Limit	$377,463	$278,832

Fields of Opportunities

STATE OF IOWA

THOMAS J. VILSACK, GOVERNOR
SALLY J. PEDERSON, LT. GOVERNOR

DEPARTMENT OF HUMAN SERVICES
KEVIN W. CONCANNON, DIRECTOR

FEB - 5 2004

James P. Aasmundstad, Regional Inspector General for Audit Services
HHS/OIG/OAS, Region VII
Room 284A
601 East 12th Street
Kansas City, MO 64106

RE: TITLE XXI FEDERAL FINANCIAL PARTICIPATION CLAIMED FOR REHABILITATIVE TREATMENT SERVICES STATE CHILDRENS'S HEALTH INSURANCE PROGRAM (SCHIP) – AUDIT REPORT CIN: A-07-02-03027

Dear Mr. Aasmundstad:

This is in response to a draft report dated December 24, 2003, concerning the Office of Inspector General's (OIG) audit of Iowa's claim for federal financial participation (FFP) under title XXI for rehabilitative treatment services for federal fiscal year 2001. The Iowa Department of Human Services (DHS) is the state Medicaid and title XXI agency.

In conducting the audit, OIG randomly selected for review 100 claims from a total of 3,236 Rehabilitative Treatment Services (RTS) State Children Health Insurance Program (SCHIP) claims for federal fiscal year 2001. The report indicates that OIG found errors in 68 of the 100 claims sampled with 28 of these having multiple errors. OIG summarized the errors it found into eight categories. OIG extrapolated its findings from the 100 claims sampled to all RTS-SCHIP claims during the audit period resulting in a recommended disallowance of $303,276 of the FFP claimed for these services for that period.

The attached response addresses each finding individually, indicating whether DHS agrees or disagrees with the finding, as well as providing some general comments about the audit and draft report. DHS appreciates the effort of OIG in conducting this audit and the opportunity to provide comments that will be incorporated into the final report.

Questions about the attached response can be addressed to:

Bob Krebs
Iowa Department of Human Services, Division of Fiscal Management
Hoover State Office Building, 1st Floor
Des Moines, IA 50319
Phone: (515) 281-6028 Fax: (515) 281-6237 e-mail: rkrebs@dhs.state.ia.us

Sincerely,

Kevin W Concannon

Kevin W. Concannon
Director

AUDIT OF TITLE XXI FEDERAL FINANCIAL PARTICIPATION CLAIMED BY IOWA FOR REHABILITATIVE TREATMENT SERVICES STATE CHILDREN'S HEALTH INSURANCE PROGRAM AUDIT REPORT CIN: A-07-02-03027
Comments from Iowa Department of Human Services (February 3, 2004)

GENERAL COMMENTS

OIG Interpretation of State Requirements:

It is the position of the Iowa Department of Human Services that OIG misinterpreted state law and administrative rule requirements pertaining to staff qualifications and staff ratios. While the misinterpretation concerning staff ratios resulted in a finding of error in only 2 claims, and was not the sole error finding for those two claims, the misinterpretation concerning staff qualifications resulted in the only "finding of error" in 38% of the sampled claims having an error. It is important to note that both the staff qualification and staff ratio errors are the result of OIG's interpretation of **state** rather than federal requirements. As described in more detail below, DHS is contesting OIG's interpretation of the state requirements associated with these two categories of errors and requesting that all errors under both categories be eliminated, the total number of units and dollar amount in error adjusted accordingly, and the amount of any extrapolated disallowance recalculated after taking into account any other revisions necessary based on DHS's responses to the remaining findings.

Although the errors found by OIG in the sample of claims reviewed are summarized under eight categories, the category of staff qualifications is of particular concern due to the frequency and the methodology used by OIG in determining that errors existed for this reason. OIG found that 39 of the 100 claims sampled were in error for failure to meet staff qualifications. While this finding is specifically addressed under the **FINDINGS** section of this response, DHS wants to emphasize that this finding, taken individually, has a substantial impact on the overall findings of the sampled claims and the recommended disallowance. Excluding all staff qualification errors could potentially reduce the overall unduplicated number of sampled units found in error by over 164, or more than 35% of the total of 464 sampled units found in error. Further, excluding all staff qualification errors would eliminate 26 sampled claims (over 38% of all sampled claims having an error) from having any errors, and reduce the amount of sampled claims in error by over 27%.

Providers' Terminology – Erroneous Use of the Phrase "Day Treatment"

DHS maintains that no error occurred for this reason under any of the sampled claims. Several audited providers erroneously used the phrase "day treatment" when referring to RTS Family-Centered services resulting in 7 of the 100 sample claims being found in error for this reason. Although a small percentage of Family-Centered service providers may have mistakenly used the term "day treatment" in documenting services provided, the services themselves were in fact eligible Family-Centered services. DHS is contesting OIG's finding and requesting that all errors under this category be eliminated, the total number of units and dollar amount in error adjusted accordingly, and the amount of any extrapolated disallowance recalculated after taking into account any other revisions necessary based on DHS's responses to the remaining findings.

While this error type is found less frequently (7 out of 100 sampled claims) than the staff qualifications error discussed above, it is also of special concern due to the number of units and corresponding amounts found in error for this reason as a proportion of all errors found. Three (3) claims were found to be in error for this reason only; however, these three claims represent over 11% of the total number of units found in error and over 5% of the amount found in error.

Note: If all errors associated with staff qualifications, staff ratios and day treatment were excluded as described above, 33 (48.53%) of the claims found in error would have no errors resulting in 246 (over 53%) fewer units in error and a reduction of $9,806 (over 53%) in the amount in error.

Timing of the Audit - Impact of DHS Audits and Recoupment:

In selecting federal fiscal year 2001 as the audit period, OIG sampled RTS claims prior to the DHS routine audit on these claims. DHS wants to clarify and emphasize that documentation and authorization errors are routinely identified during DHS audits of RTS providers. If necessary, corrective actions are taken, including claiming adjustments and recoupment of claims paid in error. DHS, through its standard auditing practice, conducted: over 30 audits of Group Care services; 30 audits of Family-Centered services; 5 audits of Family Preservation services; and a minimum of 18 audits of Family Foster Care services; including services provided in whole, or in part, in federal fiscal year (FFY) 2001. Overpayments are recouped and claiming adjustments made as the result of these audits.

Due to the coinciding of the OIG and DHS audit periods, adjustments to claims that would normally result from DHS audits did not occur until after OIG selected its audit universe and conducted its audit. Consequently, the OIG audit error amounts are overstated as they do not reflect adjustments resulting from DHS audits conducted during the OIG audit period. In addition, DHS is requesting that the error amounts be adjusted to take into account federal financial participation (FFP) already returned by DHS for FFY 2001 claims as the result of DHS audits, and the amount of any extrapolated disallowance recalculated, so DHS is not required to repay the same FFP twice.

FINDINGS

Staff Qualifications

OIG Finding:

We found 39 of the 100 sample claims had staff that lacked the qualifications to develop treatment goals or provide therapy and behavioral management services. Therapy and counseling and behavioral management are core services in the RTS Programs, and development of treatment goals is a required part of therapy and counseling services. At a minimum, individuals providing therapy or behavioral management services and developing treatment goals

should be Licensed Master Social Workers, Licensed Independent Social Workers, or the equivalent. In 39 of the 100 sample claims, staff without these minimum qualifications provided treatment.

The Iowa Administrative Code required that services covered by Medicaid should be within the scope of the licensure of the provider. The Iowa Code 154C.1 "Practice of Social Work" identified three categories of social work licensure: (1) Bachelor social workers (LBSW), (2) Master social workers (LMSW), and (3) Independent social workers (LISW). Only Licensed Master Social Workers and Licensed Independent Social Workers are listed as qualified to provide evaluation of symptoms and behaviors; strengths and weaknesses; diagnosis and treatment; psychosocial therapy with individuals, couples, families, and groups; establishment of treatment goals and monitoring progress etc. According to the Iowa Board of Social Work Examiners, Bachelor level social workers may not provide therapy "*...in any setting....*"

DHS Response:

This finding is based on the auditors' misunderstanding of state social work licensure requirements and of the services provided under the RTS program. State social work licensure requirements in Iowa Code chapter 154C define two levels of social work – that provided by bachelor social workers and that which master social workers and independent social workers are qualified to perform. [Iowa Code § 154C.1(3).] A license is required to practice master/independent-level social work, but persons trained or employed as bachelor social workers are not required to be licensed. [Iowa Code § 154C.2(1)-(2).] The draft report states that only licensed master or independent social workers are qualified to provide certain services. The report ignores the services that persons trained or employed as bachelor social workers can provide without a license. As described below, RTS services can be provided within the scope of bachelor-level social work.

Iowa Code chapter 154C provides that master and independent social workers, who are required to be licensed, are qualified to do bachelor-level social work and to provide "psychosocial assessment, diagnosis, and treatment," which is further defined as "including but not limited to performance of psychosocial histories, problem identification and evaluation of symptoms and behavior, assessment of psychosocial and behavioral strengths and weaknesses, effects of the environment on behavior, psychosocial therapy with individuals, couples, families, and groups, establishment of treatment goals and monitoring progress, differential treatment planning, and interdisciplinary consultation and collaboration". [Iowa Code § 154C.1(3)(b).] Iowa Code chapter 154C also provides that unlicensed persons trained or employed as bachelor social workers may provide "psychosocial assessment and intervention through direct contact with clients or referral of clients to other qualified resources for assistance," which is further defined as "including but not limited to performance of social histories, problem identification, establishment of goals and monitoring of progress, interviewing techniques, counseling, social work administration, supervision, evaluation, interdisciplinary consultation and collaboration, and research of service delivery including development and implementation of organizational policies and procedures in program management." [Iowa Code § 154C.1(3)(a).]

As the draft report notes, only licensed master and independent social workers can diagnose. Any diagnosis of a child receiving RTS services would come from outside the RTS program. As part of the service authorization process prior to the provision of any RTS services, the referral worker provides the review organization with any existing diagnosis and the review organization identifies any need for additional diagnoses. [441 Iowa Admin. Code 185.2(1)-(2), 185.3(3)(c), 185.4(3)(a).] The review organization consists of physicians and other licensed practitioners of the healing arts who may be qualified to diagnose. [441 Iowa Admin. Code 185.4(1).] The RTS program does not pay for diagnostic services from any provider. If a diagnosis is needed, the department would pay an appropriate provider for diagnostic services outside of the RTS program. Thus, diagnosing is not part of any services under the RTS program.

The draft report also states that only licensed master and independent social workers can provide "treatment" and "psychosocial therapy." The Iowa Code does use those terms only with regard to master and independent social workers, providing that they are qualified to provide "psychosocial assessment, diagnosis, and treatment," including "psychosocial therapy." [Iowa Code § 154C.1(3)(b).] Bachelor social workers can provide "psychosocial assessment and intervention," which is defined to include "counseling." [Iowa Code § 154C.1(3)(a).] The services of "behavioral management" and "therapy and counseling" provided under the RTS program do not necessarily involve the provision of any psychosocial "treatment" or "therapy," which can only be provided by licensed master or independent social workers, but may be provided within the scope of psychosocial "intervention" and "counseling," which can be provided by unlicensed bachelor social workers.

Behavioral management services under the RTS program are defined as "services to design, assess, or revise therapeutic treatment strategies in therapeutic treatment family foster homes," with a focus "to develop an intervention plan with the therapeutic treatment foster family . . . , assess the effectiveness of the treatment strategies and interventions . . . , and revise the treatment strategies when they are found not to be addressing the specific medical-behavioral condition of the child." [441 Iowa Admin. Code 185.1.] Basically, behavioral management services design, assess, and revise "treatment strategies" for behavioral ***"intervention"*** that is done ***by the foster family***. Despite the phrase "treatment strategies," those strategies involve, at most, psychosocial "intervention," not psychosocial "treatment" or "therapy". Further, any psychosocial "intervention," "treatment," or "therapy" is actually done by the foster family, not by the provider of behavioral management services, who is only designing, assessing, and revising strategies for interventions by the foster family. Thus, the provider of behavioral management services is not providing any psychosocial "intervention," "treatment," or "therapy"

The service of "therapy and counseling" under the RTS program is defined as "services to halt, control or reverse undue stress and severe social, emotional or behavioral problems that threaten, or have negatively affected the child's and the child's family's stability." 441 Iowa Admin. Code 185.1. Despite the use of the word "therapy," this is not necessarily "psychosocial therapy" that is part of the "psychosocial assessment, diagnosis, and treatment" that only master and independent social workers are qualified to provide. [Iowa Code § 154C.1(3)(b).] Rather, it

could be provided within the scope of the "counseling" that bachelor social workers are qualified to provide as part of "psychosocial assessment and intervention." [Iowa Code § 154C.1(3)(a).]

Aside from diagnosis, treatment/intervention, and therapy/counseling, the two levels of social work defined by the Iowa Code include identical or other very similar services. Both include "psychosocial assessment." Master/independent social work includes "performance of psychosocial histories, problem identification and evaluation of symptoms and behavior, assessment of psychosocial and behavioral strengths and weaknesses, effects of the environment on behavior, . . . differential treatment planning, and interdisciplinary consultation and collaboration." Bachelor social work includes "performance of social histories, problem identification, . . . interviewing techniques, . . .[and] interdisciplinary consultation and collaboration." [Iowa Code § 154C.1(3)(a)-(b).] Conceivably both "behavioral management" and "therapy and counseling" could include some of these overlapping services. Under the RTS definitions cited above, both can be provided within the scope of bachelor social work.

Regarding the development of treatment goals, the draft report notes that only the "psychosocial assessment, diagnosis, and treatment" that master and independent social workers can provide is defined to include "establishment of treatment goals and monitoring of progress." [Iowa Code § 154C.1(3)(b).] The "psychosocial assessment and intervention" that bachelor social workers can provide is also defined to include "establishment of goals and monitoring progress." [Iowa Code § 154C.1(3)(a).] The apparent intent is that both levels of social workers can establish goals and monitor progress for the services they provide. That is all that is contemplated by the RTS program. Under the RTS program, all providers are required to develop, review, and appropriately revise "treatment plans" for the services they provide (other than psychosocial evaluation). [441 Iowa Admin. Code 185.10(4)-(5).] These plans must identify "goals" (also referred to as "treatment goals"), which are defined as the outcomes to be achieved to meet the needs identified as part of the service authorization process. [441 Iowa Admin. Code 185.2-.4, .10(4)-(5).] If bachelor social workers can otherwise provide RTS services within the scope of the "psychosocial assessment and intervention" that they can provide, then they can also establish goals for those services, as required by the RTS program, within the scope of bachelor social work.

DHS's understanding of the state social work licensing requirements as allowing for the provision of RTS services within the scope of bachelor social work is supported by past practice in the State and by 2001 state legislation directing DHS to further relax staff qualifications for therapy and counseling services under the RTS program that already failed to require a master or independent social work license. See Iowa Acts 2001, ch. 135, sec. 23(1).

To some extent, DHS necessarily relies on its providers to stay within their scope of practice. If a service can be provided within the provider's scope of practice, it should be assumed that the provider is acting within his or her scope of practice, absent evidence to the contrary. The draft audit report makes the opposite assumption. Despite the fact that RTS services can be provided within the scope of bachelor social work, the draft audit report assumes that all services under the RTS program are outside the scope of bachelor social work. Such an assumption is an

inappropriate basis for the audit report's conclusion that staff lacked the proper qualifications to provide RTS services in 39 of the 100 sample claims.

DHS is contesting OIG's finding and requesting that all errors under this category be eliminated, the total number of units and dollar amount in error adjusted accordingly, and the amount of any extrapolated disallowance recalculated after taking into account any other revisions necessary based on DHS's responses to the remaining findings.

Non-Rehabilitative Services

OIG Finding:

We identified 24 of the 100 sample claims with services not considered rehabilitative treatment of the client. We found services teaching parents about general age-appropriate discipline, which covered topics such as enforcing rules and using consequences. One case file addressed general parenting education, where the worker taught the correct way to bottle-feed a baby. In addition, services focused on the parent's issues such as handling stress, custody battles, sale of the family home, marital problems, as well as alcohol related issues. Other non-rehabilitative services included educating a client on filling out job applications, personal hygiene, and recreational services where the worker played basketball with the client.

The CMS report stated that habilitative, social, educational, vocational, and/or leisure services delivered under the RTS program are not reimbursable under the Medicaid Program. The Iowa Administrative Code defined "nonrehabilitative" treatment needs as protective, supportive, or preventative, and "nonrehabilitative" services as those directed toward a family member to help them meet the treatment, safety, or permanency needs of a child. CMS also reported that services aimed at teaching or enhancing parenting skills and general age-appropriate training are not covered rehabilitation services, regardless of how the specific needs of the child are documented in the case files.

DHS Response:

Out of 24 claims (79 units) identified as deficient by OIG, DHS takes exception to the findings in 14 claims (48 units). In those 14 claims, DHS staff concluded that the service was either therapy and counseling or skill development, and was directed toward the rehabilitative needs of the child. Refer to Attachment A for details. DHS requests that the final report be revised to reflect the correct status of these 14 claims and that the corresponding units and amount found to be in error for this reason, and any recommended disallowance, be adjusted accordingly.

As previously noted, DHS routinely identifies this type of error during its own auditing process and takes appropriate corrective action, including claims adjustment and recoupment, which are not reflected in the OIG findings. DHS is requesting that the error amounts be adjusted to take into account federal financial participation (FFP) already returned by DHS for FFY 2001 claims

as the result of DHS audits, and the amount of any extrapolated disallowance recalculated, so DHS is not required to repay the same FFP twice.

Lack of Direct Patient Care

OIG Finding:

We concluded there was a lack of direct patient care in 12 of the 100 sample claims. The CMS report stated that Medicaid services must involve *direct* patient care, and be directed exclusively to the effective treatment of the Medicaid-eligible individual in order to qualify for Medicaid reimbursement. The CMS report further stated that nothing in the Medicaid statute or regulations would permit allowing FFP for services provided to treat family members. In each of these 12 claims, the client was not present during treatment services, and the services were not directed at the effective treatment of the client.

During our review we found documentation indicating that the State planned to implement a new policy to require the client's presence during RTS, but this policy was never implemented.

DHS Response:

DHS agrees that, under CMS rules for the Rehabilitative Treatment and Supportive Services program, rehabilitative treatment services must be directed toward the client, who is the child. However, the child need not be present during service delivery as long as the service is directed toward the identified needs of the child. This position has been supported by the regional Centers for Medicare and Medicaid Services (CMS) office as evidenced by documentation found in Attachment B of this response of a conversation between DHS and the regional CMS office held January 18, 2002. Attachment B consists of an excerpt from a letter dated February 5, 2002, from DHS to the regional CMS office, summarizing the agreement between DHS and the regional CMS on the issue of whether the child must be physically present during the delivery of RTS services. As indicated, the regional CMS had determined that, "pending further CMS clarification on this issue, DHS would not be out of compliance if the child was not present when services are provided, so long as the documentation indicated that the service was directed toward the treatment of the eligible child."

Out of 12 claims (35 units) identified as deficient by OIG, DHS takes exception to the findings in 8 claims (21units). Refer to Attachment A for details. DHS requests that the final report be revised to reflect the correct status of these 8 claims and that the corresponding units and amount found to be in error for this reason, and any recommended disallowance, be adjusted accordingly.

As previously noted, DHS routinely identifies this type of error during its own auditing process and takes appropriate corrective action, including claims adjustment and recoupment, which are not reflected in the OIG findings. DHS is requesting that the error amounts be adjusted to take into account federal financial participation (FFP) already returned by DHS for FFY 2001 claims

as the result of DHS audits, and the amount of any extrapolated disallowance recalculated, so DHS is not required to repay the same FFP twice.

Documentation and Authorization Errors

OIG Finding:

We found 14 of the 100 sample claims failed to properly support the billed services. The Iowa Administrative Code requires that documentation of billed services must include the date, amount of time, setting, service provider, the specific services rendered, the relationship to the treatment plan, and updates describing the client's progress. In addition, the State Plan specifies that RTS shall be authorized for no more than 180 days at a time, and services require prior authorization. We identified the following documentation and authorization errors.

DOCUMENTATION AND AUTHORIZATION ERRORS	NUMBER OF CLAIMS
Missing Documentation	6
Provider of Service Unknown	2
Time of Service Unknown	1
Place of Service Unknown	1
Authorization Expired	4

DHS Response (Documentation):

Authorization findings are addressed separately.

The administrative rule establishing documentation requirements for RTS (441 IAC—185.10(6)b) states the following:

b. Documentation of billed services. Documentation shall include:

- the date and amount of time services were delivered except when delivering restorative living and social skill development services in a group care setting only the date and shift hours shall be identified,
- who rendered the services,
- the setting in which the services were rendered,
- the specific services rendered and
- the relationship of the services to the services described in the treatment plan, and
- updates describing the client's progress. For the family preservation program this documentation shall be provided every ten days on Form 470-2413, Family Preservation Service Report.

DHS reviewed each of the claims identified as having documentation errors and found the following:

Documentation Errors/Expired Authorization	Number of Claims	DHS Findings
Missing Documentation	6 (36 units)	DHS takes no exception to the findings (6 claims, 36 units).
Provider of Service Unknown	2 (12 units)	DHS takes no exception to the findings (2 claims, 12 units).
Time of Service Unknown	1 (31 units)	DHS takes no exception to the finding (1 claim, 31 units)
Place of Service Unknown	1 (7 units)	Of the 1 claim (7 units) DHS takes exception to the findings for all 7 units.

Attachment A of this response identifies the claims and the basis for contesting the finding of error in each case. DHS requests that the final report be revised to reflect the correct status of these claims and that the corresponding units and amount found to be in error for these reasons, and any recommended disallowance, be adjusted accordingly.

As previously noted, DHS routinely identifies these types of errors during its own auditing process and takes appropriate corrective action, including claims adjustment and recoupment, which are not reflected in the OIG findings. DHS is requesting that the error amounts be adjusted to take into account federal financial participation (FFP) already returned by DHS for FFY 2001 claims as the result of DHS audits, and the amount of any extrapolated disallowance recalculated, so DHS is not required to repay the same FFP twice.

DHS Response (Authorization):

DHS takes exception to the 4 claims (10 units) identified as having an error due to expired authorization. DHS reviewed each claim identified as being in error for this reason and found that the services in question had in fact been authorized. It appears that OIG reviewed claims that had a service unit authorization that ended sometime during a month (the "1st" authorization) with a subsequent authorization that began in the same month (the "2nd" authorization) that allowed continued and uninterrupted service. In such cases, the DHS automated system used to track authorization for payment of services uses all remaining units of the 1st authorization (units that have been authorized but not yet provided or funded) before paying for units on behalf of the new (or 2nd) authorization. On the surface, this gave the appearance that funds were being paid for an expired service authorization leading to the OIG finding that authorization had expired. A more thorough review however, shows that the service was in fact authorized.

DHS requests that the final report be revised to eliminate any errors associated with this finding and that any recommended disallowance be adjusted accordingly.

Non-Family Members Present

OIG Finding:

We identified seven of the 100 claims in which non-family members were present during treatment services. The Iowa Administrative Code allowed services to be directed toward the client, and include family members for therapy and counseling and skill development services, and include the treatment foster family for behavioral management services, yet specifically limited the definition of family to include:

- Legal spouses who reside in the same household.
- Natural, adoptive or stepmother or father, and children who reside in the same household.
- A child who lives alone or resides with a person, or persons, not legally responsible for the child's support.

We identified individuals such as school staff, extended family members and a significant other of a parent who did not meet the Iowa Administrative Code definition of family. We also noted sensitive topics were discussed in the presence of these non-family members.

DHS Response:

DHS takes exception to the 7 claims (17 units) found in error for this reason. The Iowa Administrative Code, IAC 441-185.22, allows Family-Centered services to be *directed* toward the client and *shall* include family members (emphasis added). While this rule requires that either the child or family members, or both, be present during Family-Centered services, it does not prohibit other persons whom the child or the child's family have agreed to or requested, from being present during services. Likewise, IAC 441-185.62 allows Family Foster Care services to be *directed* toward the client and *shall* include family members (emphasis added). Again, while this rule requires that either the child or family members, or both, be present during Family Foster Care services, it does not prohibit other persons whom the child or the child's family have agreed to or requested, from being present during services. The decision of who should be present while services are delivered is one that must be made based on individual circumstances. Clients and their families should be able to include whomever they wish at their own discretion.

OIG has failed to cite any federal or state law, regulation or rule that precludes others from being present when services are delivered. There are many instances when it is not only appropriate, but also essential, to include others, such as live-in paramours, clergy, extended family, etc., when delivering Family-Centered or Family Foster Care services. Regardless of who is present

while either of these types of services are provided, all services are directed toward meeting the needs of the child rather than the needs of family members or anyone else present when services are provided.

DHS requests that the final report be revised to eliminate any errors associated with this finding and that any recommended disallowance be adjusted accordingly.

Day Treatment

OIG Finding:

We identified seven of the 100 sample claims were for services provided in conjunction with day treatment programs. We found that four of the seven claims had Family-Centered group services provided in a day treatment program that did not meet the Early and Periodic Screening, Diagnosis, and Treatment Services requirements identified under the State Plan. The State Plan specified, "*Under EPSDT authority, day treatment services for persons aged 20 or under shall be provided by hospitals with outpatient programs, psychiatric medical institutions for children, and community mental health centers.*" In addition, the other three claims were found to have individualized Family-Centered Services provided when the client was attending a day treatment program. The Rehabilitative Treatment and Supportive Services Provider Handbook stated, "*Rehabilitative or nonrehabilitative treatment services cannot be paid for when a child or youth is in a psychiatric medical institution for children (PMIC), or other medical program, such as partial hospitalization or day treatment.*"

DHS Response:

DHS takes exception to the 7 claims (94 units) found to be in error for this reason. There are no services provided under the RTS program that are classified as day treatment. All services mentioned are "therapy and counseling" or "skill development" as regularly provided in the Family-Centered services program. These services do not fall under the umbrella of day treatment as provided under the EPSDT authority. Unfortunately, some providers or staff may have incorrectly referred to these programs as day treatment. The state should not be held liable for the use of colloquial terminology by some when describing a set of services.

DHS requests that the final report be revised to eliminate any errors associated with this finding and that any recommended disallowance be adjusted accordingly.

Staffing Ratios

OIG Finding:

We found two of the 100 sample claims did not meet the minimum staff-to-client ratios during group therapy and counseling sessions for some or all of the core services billed. The Iowa Administrative Code specifies that each Rehabilitative Treatment Services provider shall maintain records to demonstrate that sufficient qualified staff (responsible for the direct provision of rehabilitative treatment services) was present to meet the staff ratio requirements during prime programming time. These staff ratios are defined in the Iowa Administrative Code under both the Rehabilitative Treatment Services and the facility licensure sections. Prime programming time is defined as any period of the day in a group care program when treatment or special attention is necessary.

DHS Response:

The Iowa foster group care staffing ratios were established to address child safety and ensure adequate supervision. These staffing ratios govern facility licensure standards and were developed primarily to assure safety. These standards were not developed to specifically address the direct provision of RTS services as indicated by the draft report.

The draft report correctly states that RTS providers are required to meet staff ratio requirements during prime programming time and that prime programming time is defined as any period of the day in a group care program when treatment or special attention is necessary. OIG has apparently interpreted this to mean that the staff ratio requirement can only be met if the number of qualified staff needed to meet the ratio requirement are directly involved and physically in the same room where a group session is being conducted and that this ratio is documented in individual case records for each session. Such an interpretation exceeds both the licensure requirements and the department's administrative rules for RTS services.

While the necessary number of qualified staff must be on-duty and available during prime programming time, there is no requirement that these staff actively participate in each and every group session in order to meet staff ratio requirements. Likewise, there is no requirement that individual case records document the staff ratio for each and every group session. Program staffing ratios are documented by all Iowa group foster care facilities and confirmed during regularly scheduled licensure visits. Licensure standards require this information to be maintained, but not in individual case records -- such as those used in the OIG review. The Department of Inspections and Appeals examines staffing ratios as part of its licensing reviews. As all RTS providers included in the audit were licensed during the audit period, and absent any documented evidence that the appropriate staff ratio requirements necessary to maintain licensure were not being met, by considering all staff on duty during prime programming time for the claims sampled, DHS is in compliance with the staffing ratio criteria for the claims reviewed and requests that the final report be revised to eliminate any errors associated with this finding and that any recommended disallowance be adjusted accordingly.

Therapy and Counseling Sessions

OIG Finding:

We determined two of the 100 sample claims had not met the therapy and counseling core requirements at the time that services were billed as set forth by the Iowa Administrative Code. Additional therapy and counseling services for a child in a group care facility may not be billed until the core therapy and counseling requirements have been met.

DHS Response:

DHS concurs with the OIG findings regarding therapy and counseling.

RECOMMENDATIONS

OIG Recommendations:

We recommend that the State:

- Return to the Federal Government $303,276 Medicaid title XXI FFP claimed for RTS for FFY 2001.

- Strengthen policies and procedures to ensure that Medicaid payments are based on services directed exclusively to the rehabilitative treatment needs of the child as defined in the State Plan and are provided in compliance with State and Federal regulations.

DHS Response:

DHS contends that it has sufficiently demonstrated that a substantial number of errors identified in the draft report are unfounded, warranting a significant revision of the report's findings as well as any recommended disallowance. DHS is prepared to work with OIG to re-examine the errors in question and resolve any discrepancies between OIG's findings and DHS's review.

DHS contends that as described throughout this response, its current policies and procedures are adequate to ensure title XXI payments for RTS services are made in accordance with the State Plan and comply with state and federal regulations.

AUDIT OF TITLE XXI FEDERAL FINANCIAL PARTICIPATION CLAIMED BY IOWA FOR REHABILITATIVE TREATMENT SERVICES STATE CHILDREN'S HEALTH INSURANCE PROGRAM AUDIT REPORT CIN: A-07-02-03027
Comments from Iowa Department of Human Services (February 3, 2004)

ATTACHMENT A

Background

During January 2004, DHS project managers conducted a "look behind" review of the 100 claims reviewed by OIG with respect to error findings concerning non-rehabilitative services, lack of direct patient care, documentation and authorization, and therapy and counseling. Out of the 35 claims (174 units) in the amount of $12,318.05 that were identified as deficient in the OIG findings under B, C, D and H of the OIG report, DHS disputes the findings in whole or in part for 17 claims (61 units) in the amount of $2,201.88.

The results of the DHS review for specific claims are included in the following spreadsheet.

							<<<----DOCUMENTATION ERRORS----->>>													
#	State ID	Month of Service	Provider	SVC Code	Units Paid	Units Disallow	Non-Rehabilitative Services Units	Lack of Direct Care Units	Therapy & Counseling Services Units	Expired Authorization Units	Missing Case File Units	Missing Case Notes Units	Provider of Service Unknown Units	Place of Service Unknown Units	Missing SSD in Group Care Units	TIME No Shift Indicated Units	AGREE x		$ DISPUTED x	COMMENTS x
1	1526049C	6/1/2001	LUTHERAN SOCIAL SERV OF IA	A210	6	2				2								2	$75.40	Disagree. There were two 3055 authorizations in the file for this service. One for the period 12-14-00 through 6-14-01 and the second for the period 6-15-01 through 12-15-01.
2	1593311B	3/1/2001	The Crittenton Ctr	A210	20	4	4	4										4	$140.16	Contact was face-to-face with client's mother and SD service was directed toward identified client needs by instructing mother on specific therapeutic interventions to enable them to meet specific medical-behavioral health needs of identified child as per DHS case plan and agency treatment plan.
3	1872401B	6/1/2000	BERGEN MERCY HLTH SYSTEM	D161	27	1									1		1		$0.00	Agree.
7	1144825H	12/1/2000	Rosanne VanEtten	A110	6	6	6											6	$228.60	Disagree. Services directed towards the rehab needs of the client.
8	0800256J	10/1/2000	Father Flanagan's Home	C350	7	7	1										1		$0.00	There was appropriate documentation of only 6 units of this service that met the service definition and was directed towards the child's needs. As 7 units were billed and paid there is a 1 unit overpayment due to missing documentation.
9	1763768I	7/1/2000	CHILDREN & FAMILIES OF IA	D517	4	4			2								2		$0.00	Agree.
10	1085619F	8/1/2000	BETHANY FOR CHILDREN	A210	3	3						3					3		$0.00	Agree.
11	1406485A	5/1/2000	FAMILY RESOURCES	D360	7	7						7					7		$0.00	Agree.
15	1360657J	8/1/2000	FAMILIES OF NORTHEAST IOWA	A221	22	22					22						22		$0.00	Agree.
21	2091579J	10/1/2000	MID-IA FAMILY THERAPY	A211	8	8	2	2										4	$166.04	Disagree on both findings. Services were based on client needs and when the client was not present, the service was based on the identified client needs. NOT CLEAR IF 4 OR 2 UNITS ARE INVOLVED WITH THESE TWO FINDINGS AS DATES WERE NOT SPECIFIED.
25	1270765J	7/1/2001	Foundation II	A120	7	7							7				7		$0.00	Agree.
27	1636326C	9/1/2000	FRANCIS LAUER YOUTH SERVICES	A210	4	4	4	1										4	$141.96	Disagree on both findings. Only 4 units billed out of 9 units provided. Client was present for 7 of the units and services focused on client rehab needs.

										<<<---DOCUMENTATION ERRORS---->>>										
	State	Month of		SVC	Units	Units	Non-Rehabilitative Services	Lack of Direct Care	Therapy & Counseling Services	Expired Authorization	Missing Case File	Missing Case Notes	Provider of Service Unknown	Place of Service Unknown	Missing SSD In Group Care	TIME No Shift Indicated	AGREE		$ DISPUTED	COMMENTS
29	1964675I	7/1/2001	FOUR OAKS INC	A210	8	1	1	1										1	$33.54	Disagree. One 15 minute time period was with the parent and dealt with child specific issues. The remainder of the times the child was also present.
31	1371612F	11/1/2000	Family Solutions	A110	5	5							5				5		$0.00	Agree.
35	1019340C	5/1/2001	YOUTH AND SHELTER SER INC	A211	7	2	2											2	$69.80	Disagree. Services were based on identified client needs.
43	1833115D	5/1/2001	West Iowa Family Services	A210	4	4	2			4								4	$135.44	Disagree re: expired authorization. There were two authorizations in file: one for period 11/2/2000 to 5/2/2001 the second for period 5/3/2001 to 11/30/2001. Disagree re: non-rehab. Services were directed towards the rehab needs of the client as defined in 3055 and treatment plans.
44	1665552E	10/1/2000	LUTHERAN SOCIAL SERV OF IA	A210	4	2	2											2	$75.40	Disagree. Services were based on identified client needs.
45	1164889B	5/1/2001	Alternative Treatment Associates	A210	4	3	3	3									3		$0.00	Disagree with finding regarding direct care as services provided to parent were directed towards child's needs. Agree regarding non-rehabilitative finding.
51	1247652C	2/1/2001	BREMWOOD-LUTHERAN CHILDREN	A210	5	5	5	5										5	$186.45	Disagree with both findings. While services were provided to parent they focused on child specific rehab needs and how parent could work with child on those issues.
52	1071346D	12/1/2000	Family Resources	A210	18	3	1					2					3		$0.00	Agree.
54	1770919H	10/1/2000	LUTHERAN SOCIAL SERV OF IA	A110	3	3	3	1		3							2	1	$38.17	Disagree with one finding and agree with two findings. There were two 3055 authorizations in the file for this service. One for the period 4-30-00 through 10-3-00 and the second for the period 10-4-00 through 3-31-03. Agree related to non-rehabilitative services for one unit and one different unit re no direct care as when client was not present service did not deal directly with child's needs.
60	1800667J	5/1/2001	Family Resources	A110	7	7	3	3									3		$0.00	Agree. NOT SURE IF 3 OR 6 UNITS INVOLVED HERE AS DATES NOT SPECIFIED.
63	1420008I	6/1/2001	BREMWOOD-LUTHERAN CHILDREN	A110	17	17								7				7	$288.68	Disagree. Notes contain statement that, "All sessions are held in the home unless otherwise indicated".
66	1240632C	7/1/2001	SYSTEMS UNLIMITED, INC	A212	7	7	7	7									7		$0.00	Agree.
67	1204667E	1/1/2001	Young House Family	A112	16	16	2										2		$0.00	Agree.

							<<<----DOCUMENTATION ERRORS----->>>														
	State	Month of		SVC	Units	Units	Non-Rehabilitative Services	Lack of Direct Care	Therapy & Counseling Services	Expired Authorization	Missing Case File	Missing Case Notes	Provider of Service Unknown	Place of Service Unknown	Missing SSD in Group Care	TIME No Shift Indicated	AGREE		$ DISPUTED	COMMENTS
68	1604857D	1/1/2001	Young House Family	A111	9	5	5	3									5		$0.00	Agree.
71	1586320G	5/1/2001	Young House Family	A111	16	3	3										3		$0.00	Agree.
72	1099737D	7/1/2001	Clarinda Youth Corp.	D161	31	31			2							31	31		$0.00	Agree with both.
75	1473273D	8/1/2001	VISINET OF IOWA INC	A210	8	8	8											8	$267.44	Documentation supported the appropriate provision of 9 units of face-to-face SD service to the child that met the service definition of SD and was directed towards the rehabilitative needs of the child.
76	1484141C	1/1/2001	Young House Family	A112	9	9	4					1					5		$0.00	Agree.
78	1045784I	10/1/2000	INTEGRATIVE HLTH SERVICES	A110	3	1	1										1		$0.00	Agree.
83	1770919H	7/1/2001	BREMWOOD-LUTHERAN CHILDREN	A210	4	4	4	2										4	$149.16	Disagree with both findings. Direct care finding was found as services were provided to parent that focused on child's needs. Services were rehabiliative in nature and aimed at client's needs.
91	0799621H	10/1/2000	LUTHERAN SOCIAL SERV OF IA	C210	2	1				1								1	$43.58	Disagree. There were two 3055 authorizations in the file for this service. One for period from 4-22-00 through 10-22-00 and the second for the period 10-23-00 through 1-23-01.
96	1005977H	12/1/2000	Counseling for Growth and Change	A121	6	3	3											3	$50.19	Disagree. The services provided dealt with issues identified in the 3055 and the treatment plan.
97	1172704D	6/1/2001	BREMWOOD-LUTHERAN CHILDREN	A210	3	3	3	3										3	$111.87	Disagree with both findings. While services were provided to parent they focused on child specific rehab needs and how parent could work with child on those issues.
					1460		182	82	10	24	45	30	26	15	3	63	113	61	$2,201.88	**Dollars Disputed**
																	agg	dis	$12,318.05	**Dollars Paid**
																			35.06%	**Percent of Units Disputed**
																			17.88%	**Percent of Dollars Disputed**
					paid	disallowed	non rehab	lack dc	T&C	exp auth	no c file	no c note	provider ?	setting ?	GC SD	shift ?				
			sub total of units		317	218	79	35	4	10	22	13	12	7	1	31			0	Checksum of units. should = 0 when done
			sun count of cases				24	12	2	4	1	4	2	1	1	1	18	17		

Non-Rehabilitative Services**	**Out of 24 cases/79 units**	**Agree 10 cases/31 units***	**Disagree 14 cases/ 48 units***
Lack of Direct Care**	**Out of 12 cases/35 units**	**Agree 4 cases/14 units**	**Disagree 8 cases/ 21 units**
Therapy & Counseling**	**Out of 2 cases/4 units**	**Agree 2 case/4 units**	**Disagree 0 cases/0 units**
Expired Authorization**	**Out of 4 cases/10 units**	**Agree 0 cases/0 units**	**Disagree 4 cases/10 units**
Missing Documentation**			
Missing Case File**	**Out of 1 case/22 units**	**Agree 1 case/22 units**	**Disagree 0 cases/0 units**

State	Month of		SVC	Units	Units	Non-Rehabilitative Services	Lack of Direct Care	Therapy & Counseling Services	<<<---DOCUMENTATION ERRORS---->>> Expired Authorization	Missing Case File	Missing Case Notes	Provider of Service Unknown	Place of Service Unknown	Missing SSD in Group Care	TIME No Shift Indicated	AGREE		$ DISPUTED	COMMENTS
Missing Case Notes**		Out of 4 cases/13 units			Agree 4 case/13 units						Disagree 0 cases/0 units								
Missing SD in Group Care**		Out of 1 case/1 unit			Agree 1 case/1 unit						Disagree 0 cases/0 units								
Provider of Service Unknown**		Out of 2 cases/12 units			Agree 2 cases/ 12 units						Disagree 0 cases/0 units								
Place of Service Unknown**		Out of 1 case/7 units			Agree 0 cases/0 units						Disagree 1 case/7 units								
Time - No Shift Indicated**		Out of 1 case/31 units			Agree 1 case/31 units						Disagree 0 cases/0 units								
# Cases Reviewed for Documentation		35																	
Notes:																			
* One case agree in part, disagree in part																			
** Note: Counts between lines are duplicated as some lines had multiple problems identified																			

AUDIT OF TITLE XXI FEDERAL FINANCIAL PARTICIPATION CLAIMED BY IOWA FOR REHABILITATIVE TREATMENT SERVICES STATE CHILDREN'S HEALTH INSURANCE PROGRAM AUDIT REPORT CIN: A-07-02-03027
Comments from Iowa Department of Human Services (February 3, 2004)

ATTACHMENT B

Excerpt from DHS letter to Region VII CMS dated February 5, 2002.

Child Present

Background. CMS policy provides that, "Under the rehabilitation option, meeting, counseling, etc. with the client, family, legal guardian and/or significant other may be covered provided that the services are directed exclusively to the effective treatment of the recipient. Consultation with, and training others, can be a necessary part of planning and providing care to patients in need of psychiatric services ... State plan amendments must make clear that services are only provided to, or directed exclusively toward, the treatment of Medicaid eligible persons."

Iowa administrative rules for RTS services are consistent with this policy and require that RTS services be either provided directly to the child, or that services "be directed toward the needs of the child." CMS, however, has consistently expressed concerns that RTS services are being provided to "ineligible persons" – i.e., that services are being provided to treat the parent rather than to treat the child. We have requested technical assistance from CMS staff regarding how to address CMS's concerns.

In a March 21, 2001 letter to Thomas Lenz, we indicated that we had decided to begin taking steps to revise our current policy and practice to require that the child always be present in order for a service to be billable to Medicaid. At a subsequent meeting, CMS staff reiterated that such a policy change may not be necessary to address their concern, and indicated that new policy guidance from CMS was forthcoming.

Summary of Friday's call. During our call, we reviewed the history of our discussions on this issue, as well as the ambiguity of the CMS policy governing this issue. We advised that we had reconsidered our March 21, 2001 decision and were no longer moving forward to require that the child always be present in order for a service to be billable to Medicaid.

What we agreed on. You indicated that, pending CMS clarification of this policy, you would not find us out of compliance if the child was not present when services were provided, so long as the documentation indicated that the service was directed towards the treatment of the eligible child.

Follow-up. You indicated that you would follow-up with Baltimore on the status of the forthcoming policy guidance regarding this issue.

Note: The Region VII CMS office has not subsequently contradicted the summary above, nor provided further guidance on this issue.