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OFFICE OF INSPECTOR GENERAL
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May 26, 2005

Report Number: A-03-03-00218

S. Anthony McCann, Secretary
Department of Health and Mental Hygiene
State of Maryland
201 W. Preston Street
Baltimore, Maryland 21201

Dear Mr. McCann:

Enclosed are two copies of the Department of Health and Human Services (HHS), Office of Inspector General (OIG) final report entitled, "Review of Family Planning Service Costs Claimed by Maryland's Medicaid Managed Care Program." A copy of this report will be forwarded to the HHS action official noted below for her review and any action deemed necessary.

Final determination as to actions taken on all matters 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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Page 2 – S. Anthony McCann

If you have any questions or comments about this report, please do not hesitate to contact me at (215) 861-4470 or through e-mail at stephen.virbitsky@oig.hhs.gov or Robert Baiocco, Audit Manager, at (215) 861-4486 or through e-mail at robert.baiocco@oig.hhs.gov. Please refer to report number A-03-03-00218 in all correspondence.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Stephen Virbitsky", with a long horizontal flourish extending to the right.

Stephen Virbitsky
Regional Inspector General
for Audit Services

Enclosures

Direct Reply to HHS Action Official:

Nancy B. O'Connor, Regional Administrator
Centers for Medicare & Medicaid Services, Region III
Department of Health and Human Services
The Public Ledger Building, Suite 216
150 S. Independence Mall West
Philadelphia, Pennsylvania 19106

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**REVIEW OF FAMILY PLANNING
SERVICE COSTS CLAIMED BY
MARYLAND'S MEDICAID
MANAGED CARE PROGRAM**



**MAY 2005
A-03-03-00218**

Office of Inspector General

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OAS FINDINGS AND OPINIONS

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



EXECUTIVE SUMMARY

BACKGROUND

Under section 1905 (a)(4)(c) of the Social Security Act (the Act), States are required to provide family planning services to Medicaid beneficiaries. The Centers for Medicare & Medicaid Services (CMS) defines family planning services as those services that prevent or delay pregnancy or otherwise control family size. States may claim 90 percent Federal funding for the costs of family planning services. The Federal share for most other Medicaid services in Maryland is 50 percent. Although the Act does not specifically require enhanced Federal funding for family planning services provided through managed care delivery systems, CMS has permitted States to claim these costs.

With the assistance of a private consultant, the Department of Health and Mental Hygiene (Maryland) developed a methodology to calculate its family planning service costs by multiplying a rate, known as a factor, by its managed care capitation¹ payments. The factor represented a ratio of family planning expenditures to total healthcare expenditures and was computed using State fiscal year 1997 fee-for-service claims. Between July 2000 and March 2004, Maryland claimed \$59.7 million in Federal funding for family planning service costs.

This audit is part of a multi-state review requested by CMS to validate the rates used to claim family planning service costs at the 90 percent Federal funding percentage.

OBJECTIVE

Our objective was to determine whether Maryland claimed family planning service costs under its Medicaid managed care program in accordance with its methodology and Federal statutes, regulations and guidelines.

SUMMARY OF FINDINGS

Maryland did not claim family planning service costs in accordance with its methodology. Maryland included ineligible costs in its family planning factor calculation. In the numerator component of the factor (family planning expenditures), Maryland included services that did not qualify as family planning but also excluded family planning service claims for a two-month period.

As a result, between July 2000 and March 2004, Maryland overstated its claims of family planning service costs by \$2.9 million. By claiming these costs at the enhanced family planning rate of 90 percent, rather than its regular Federal share of 50 percent, Maryland received \$228,643 in unallowable Federal reimbursement.

¹ A capitation is a predetermined per-member, per-month State payment to managed care organizations.

RECOMMENDATIONS

We recommend that Maryland:

1. refund the Federal share of \$228,643 in incorrectly claimed family planning service costs between July 2000 and March 2004, and
2. apply the audited family planning factor of 1.33 percent (Appendix A) for claims after March 2004 and refund the Federal share of any overpayment. (As shown below in the State Comments, Maryland computed an overpayment of \$335,999 in Federal funds for the period April 2004 through March 2005).

STATE COMMENTS

Maryland officials agreed with our findings and recommendations. To comply with the second recommendation, Maryland computed an overpayment of \$335,999 in Federal funds for the period April 2004 through March 2005. Maryland agreed to refund this overpayment along with the \$228,643 identified by our review. The full text of Maryland's comments is included in this report as Appendix C.

TABLE OF CONTENTS

	<u>Page</u>
INTRODUCTION	1
BACKGROUND	1
Medicaid Overview.....	1
Medicaid Reporting Requirements	1
Family Planning Services	1
Maryland’s Managed Care Program.....	1
Maryland’s Methodology For Claiming Family Planning Costs.....	2
OBJECTIVE, SCOPE, AND METHODOLOGY	2
Objective.....	2
Scope	2
Methodology.....	3
FINDINGS AND RECOMMENDATIONS	4
MARYLAND OVERSTATED ITS CLAIM FOR FAMILY PLANNING SERVICE COSTS	4
Maryland Overstated the Numerator Component of its Factor Calculation	4
Maryland Did Not Ensure Adequate Oversight.....	5
Maryland Received \$228,643 in Unallowable Federal Reimbursement	5
RECOMMENDATIONS	5
STATE COMMENTS AND OIG RESPONSE	5
APPENDIXES	
A - FAMILY PLANNING FACTOR CALCULATION	
B - OVERPAYMENT CALCULATION	
C - MARYLAND’S COMMENTS	

INTRODUCTION

BACKGROUND

Medicaid Overview

In 1965, Congress established Medicaid as a jointly funded Federal and State program that provides medical assistance to low-income people who qualify under Title XIX of the Social Security Act (the Act). In Maryland, the Department of Health and Mental Hygiene (Maryland) administers the Medicaid program with Federal oversight from the Centers for Medicare & Medicaid Services (CMS), an agency within the Department of Health and Human Services.

Medicaid Reporting Requirements

CMS requires States to report their Medicaid expenditures, both medical assistance and administrative, on Form CMS-64, Medicaid Program Expenditures Report. The Federal Government pays its share of medical assistance expenditures according to a formula defined in section 1905(b) of the Act. That share is known as the Federal medical assistance percentage (FMAP) and ranges from 50 percent to 83 percent, depending upon each State's relative per capita income. The FMAP rate in Maryland is 50 percent for most services.

Family Planning Services

Under section 1905(a)(4)(c) of the Act, States are required to provide family planning services to Medicaid beneficiaries. The scope of family planning services is not further defined in the statute or by regulation. However, CMS provided general guidance in section 4270 of the State Medicaid Manual, which states that the purpose of the family planning benefit is "to aid those who voluntarily choose not to risk an initial pregnancy." It further defines family planning services to include those services that prevent or delay pregnancy or otherwise control family size. CMS issued additional guidelines,² "Title XIX Financial Management Review Guide (Number 20): Family Planning Services," to clarify the reporting of these services.

Under section 1903(a)(5) of the Act and 42 CFR §§ 432.50 and 433.15, States may claim 90 percent Federal funding for the costs of family planning services. Although section 1905(a)(4)(c) of the Act does not specifically require enhanced Federal funding for family planning services provided through managed care delivery systems, CMS has permitted States to claim these costs.

Maryland's Managed Care Program

Maryland contracts with managed care organizations to deliver physical health services, including family planning. Mental health services are provided in a separate fee-for-service delivery system. Initial enrollment in Maryland's managed care program, known as HealthChoice, began in June 1997 and was approved by CMS under a demonstration waiver granted under section

² CMS issued guidelines in 2002 to expand upon material issued in 1997 and to provide assistance to its regional offices. The guidelines are also cited in section 2700.2 of the State Medicaid Manual.

1115 of the Act. Enrollment in HealthChoice is mandatory for Medicaid beneficiaries who qualify.

Maryland's Methodology for Claiming Family Planning Service Costs

Maryland claimed family planning service costs using a rate developed with the assistance of a private consultant. For each claim, Maryland multiplied this rate, known as a factor, by its capitation payments made to managed care organizations. The factor represented the ratio of family planning service costs to total healthcare costs. In November 1998, Maryland determined that 0.90271 percent of capitation payments to managed care organizations represented family planning service costs. Seeking to revise its factor, Maryland hired a private consultant who increased the factor to 1.39 percent. Using State fiscal year 1997³ fee-for-service claims data, the private consultant first computed family planning ratios for each of Maryland's three Medicaid beneficiary groups (Family and Children,⁴ Disabled, and SOBRA⁵) by dividing a:

- **Numerator** that included total fee-for-service family planning expenditures for beneficiaries eligible to enroll in managed care by a,
- **Denominator** of total fee-for-service expenditures for beneficiaries eligible for enrollment in managed care for services covered by managed care.

After adding the family planning capitation payments for each group, Maryland divided the total family planning capitation payments by the total capitation payments to calculate a factor of 1.39 percent. CMS did not formally approve of this methodology. Both Maryland and CMS agreed they held discussions about the methodology but neither could confirm what, if anything, CMS agreed to endorse. Maryland's calculation is shown in Appendix A.

OBJECTIVE, SCOPE, AND METHODOLOGY

Objective

Our objective was to determine whether Maryland claimed family planning service costs under its Medicaid managed care program in accordance with its methodology and Federal statutes, regulations, and guidelines.

Scope

Our review covered Maryland's \$59.7 million claim for family planning service costs for the period July 2000 through March 2004. The Federal share of this claim totaled \$52.8 million including \$22.4 million representing the difference between the 90 percent enhanced family planning rate and Maryland's regular Federal share. We reviewed only those internal controls

³ Maryland's State fiscal year 1997 ended June 30, 1997.

⁴ Family and Children - Low-income families with children who meet the financial and technical eligibility requirements for Maryland's *Temporary Cash Assistance* Program.

⁵ SOBRA - Pregnant and post partum women and their children up to age five who are eligible based on the provisions of the sixth Omnibus Budget Reconciliation Act of 1986 (Public Law 99-509).

considered necessary to achieve our objective. Our fieldwork was performed in Baltimore, Maryland.

Methodology

To accomplish our objective, we:

- reviewed relevant criteria including: the Act; Federal Medicaid regulations; CMS’s State Medicaid Manual, policy memorandums and guidelines, Departmental Appeals Board decisions, Maryland’s State Medicaid Plan, HealthChoice waiver, and its methodology for computing the family planning factor;
- reconciled the total capitation payments made between July 2000 and March 2004 to those reported on Form CMS-64 to determine the Federal share of the family planning service costs;
- reconciled the Federal share claimed on Form CMS-64 to the Federal share calculated using the family planning factor; and
- reviewed the numerator and denominator components of the family planning factors to determine whether Maryland computed its factors according to its methodology.
 1. For the numerator (family planning expenditures), we:
 - reconciled the family planning expenditures used in the factor computation to the fee-for-service family planning expenditures reported on Form CMS-64 for the year ended June 30, 1997; and
 - analyzed the services identified in a database to determine whether the claims represented family planning services in accordance with CMS’s “Title XIX Financial Management Review Guide (Number 20): Family Planning Services.”
 2. For the denominator (total healthcare expenditures), we reviewed documentation to support 1997 base year costs of \$532,533,616 to determine if they represented total fee-for-service expenditures for beneficiaries eligible for enrollment in managed care for services covered by managed care.

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

FINDINGS AND RECOMMENDATIONS

MARYLAND OVERSTATED ITS CLAIMS FOR FAMILY PLANNING SERVICE COSTS

Between July 2000 and March 2004, Maryland overstated its claim for family planning service costs by \$2.9 million. By claiming these costs at the enhanced family planning rate of 90 percent instead of its regular Federal share of 50 percent, Maryland received \$228,643 in unallowable Federal reimbursement.

Maryland included ineligible costs in its family planning factor calculation. In the numerator component of the factor, Maryland included services that did not qualify as family planning but also excluded family planning service claims for a two-month period.

Maryland Overstated the Numerator Component of its Factor Calculation

Maryland overstated the numerator component of the factor by \$383,663. Maryland included services that did not qualify as family planning but also excluded family planning service claims for a two-month period. The numerator contained 60,315 claims for inpatient, outpatient, laboratory, and pharmacy family planning services totaling \$6,749,581. Maryland captured all services provided when at least one of the diagnosis codes in a provider's invoice was in a V25, contraceptive management series, and/or a V26, procreative management series. These diagnosis codes were consistent with those identified in the CMS financial management review guide as family planning. However, some of the procedures included in the database were not family planning. For example, there were:

- 222 claims totaling \$1.0 million for a lower cervical Cesarean section (International Classification of Diseases (ICD-9-CM) code 74.1) provided in an inpatient hospital setting.
- 48 claims for \$28,550 for delivery services performed by a physician (Current Procedural Terminology (CPT) codes 59409 and 59514).

These services do not “prevent or delay pregnancy or otherwise control family size” since they were pregnancy related services. Often these delivery services were billed in conjunction with a sterilization procedure, which is a valid family planning service. After reviewing a probe sample, Maryland agreed that some claims included in the numerator were incorrect.

Maryland also noted that the claims data did not include services paid in August and September 1996. As a result, Maryland suggested, and we agreed, that they reconfigure the paid claims database. The reconfigured database contained 74,221 claims for inpatient, outpatient, laboratory, and pharmacy family planning service claims totaling \$6,365,918. Our review confirmed that Maryland removed those claims with a single, non-family planning service. The database, however, still included 5,432 multiple service claims. These claims include both non-family planning and family planning services. Maryland stated that it calculated the family planning costs associated with these claims as the lesser of the cost to perform an outpatient

sterilization procedure or 33 percent of the inpatient claim payment. We believe this methodology represents a reasonable allocation of the work effort for these claims and accepted Maryland's revised family planning service costs totaling \$6,365,918 as the numerator component of the factor computation.

Maryland Did Not Ensure Adequate Oversight

Maryland developed its factor with the assistance of a private consultant. By including in the numerator services that did not qualify as family planning and also excluding family planning service claims for a two-month period, Maryland did not ensure that the claims data used to compute the factors complied with its methodology or CMS family planning guidelines.

Maryland Received \$228,643 in Unallowable Federal Reimbursement

The initial database of claims totaling \$6,749,581 that supported the numerator component of the factor calculation was overstated by \$383,663 because Maryland included services that were not family planning but also excluded family planning service claims for a two-month period. We recalculated the factor based on family planning expenditures of \$6,365,918 (Appendix A).

We applied the recomputed family planning factor of 1.33 percent to capitation payments and determined that Maryland overstated its family planning service claims by \$2,920,353. By claiming these costs at the enhanced 90 percent rate, rather than at its regular FMAP rate of about 50 percent, Maryland received \$228,643 in excess Federal reimbursement (Appendix B).

RECOMMENDATIONS

We recommend that Maryland:

1. refund the Federal share of \$228,643 in incorrectly claimed family planning service costs between July 2000 and March 2004, and
2. apply the audited family planning factor of 1.33 percent (Appendix A) for claims after March 2004 and refund the Federal share of any overpayments. (As shown below in the State Comments, Maryland computed an overpayment of \$335,999 in Federal funds for the period April 2004 through March 2005).

STATE COMMENTS AND OIG RESPONSE

The full text of Maryland's comments is included in this report as Appendix C. In summary, Maryland officials agreed with the findings and recommendations. Maryland agreed to make the \$228,643 refund adjustment on Form CMS-64 for the quarter ending June 30, 2005 along with \$335,999 that represents an overpayment of Federal funds for the period April 2004 through March 2005 calculated using the recommended factor of 1.33 percent. We are pleased with the State's reply to our recommendations and extend our thanks for their cooperation during this review.

APPENDIXES

FAMILY PLANNING FACTOR CALCULATION

Maryland calculated its family planning factor by dividing the portion of its capitation payments representing family planning services by its total capitation payments. To compute its family planning capitation payments, Maryland began by calculating a ratio of its fee-for-service family planning costs by its total fee-for-service healthcare costs. The following table presents the complete step-down process in the factor calculation, both claimed (1.39 percent) and audited (1.33 percent).

Family Planning Factor (July 2000 – March 2004)				
Key	Medicaid Beneficiary Group	Claimed	Audited	Variance
Numerator – Family Planning Expenditures				
A	Family & Children	\$4,293,764	\$ 4,260,552	
B	Disabled	399,282	441,762	
C	SOBRA	2,056,535	1,663,604	
D	Total	\$6,749,581	\$6,365,918	\$383,663
Denominator – Total Healthcare Expenditures				
E	Family & Children	\$203,725,277	\$203,725,277	
F	Disabled	306,386,185	306,386,185	
G	SOBRA	22,422,154	22,422,154	
H	Total	\$532,533,616	\$532,533,616	\$0
Family Planning Ratio				
I	Family & Children (A/E)	2.107624%	2.091322%	
J	Disabled (B/F)	0.1303198%	0.1441847%	
K	SOBRA (C/G)	9.171889%	7.4194666%	
Family Planning Capitation				
L	Family & Children (I*P)	\$7,514,073	\$7,455,956	
M	Disabled (J*Q)	500,145	553,356	
N	SOBRA (K*R)	2,724,522	2,203,962	
O	Total	\$10,738,740	\$10,213,274	
Total Capitation				
P	Family & Children	\$356,518,756	\$356,518,756	
Q	Disabled	383,782,933	383,782,933	
R	SOBRA	29,705,132	29,705,132	
S	Total	\$770,006,641	\$770,006,641	
Family Planning Factor				
T	Family Planning Capitation	\$10,738,740	\$10,213,274	
U	Total Capitation	\$770,006,641	\$770,006,641	
V	Factor (I/L)	1.3946296%	1.3263874%	

OVERPAYMENT CALCULATION

Using its factor of 1.39 percent, Maryland claimed that \$59.7 million of its \$4.3 billion in capitation payments for Medicaid managed care program represented family planning service costs. The Federal share of these expenditures totaled \$52.8 million

Family Planning Factor of 1.3946296%			
Federal Fiscal Year	Capitation Payment	Family Planning Service Costs	Federal Share
2000	\$241,027,392	\$3,361,439	\$3,025,295
2001	1,012,674,896	14,123,064	12,710,758
2002	1,136,245,907	15,846,422	13,322,057
2003	1,261,188,019	17,588,901	15,830,010
2004	628,258,627	8,761,881	7,885,918
Total	\$4,279,394,841	\$59,681,707	\$52,774,038¹

Using our audited factor of 1.33 percent, we believe that Maryland should have claimed \$56.8 million, not \$59.7 million in family planning service costs. The enhanced Federal share for the \$56.7 million is \$51.1 million. Maryland is also entitled to its regular Federal share, \$1.4 million, on the \$2.9 million originally claimed at the enhanced rate. The total Federal share that Maryland should have claimed was \$52.5 million.

Audited Factor of 1.3263874%						
Federal Fiscal Year	Expenditures			Federal Share		
	Family Planning	Non-Family Planning	Total	Family Planning	Non-Family Planning	Total
2000	\$3,196,957	\$164,482	\$3,361,439	\$2,877,261	\$82,241	\$2,959,502
2001	13,431,992	691,072	14,123,064	12,088,793	345,536	12,434,329
2002	15,071,023	775,399	15,846,422	13,563,920	387,700	13,951,620
2003	16,728,239	860,662	17,588,901	15,055,415	430,331	15,485,746
2004	8,333,143	428,738	8,761,881	7,499,829	214,369	7,714,198
Total	\$56,761,354	\$2,920,353	\$59,681,707	\$51,085,218	\$1,460,177	\$52,545,395

¹ This represents the amount actually claimed on Form CMS-64. For this period, Maryland was entitled to a Federal share of \$53,713,536, a difference of \$939,498 from the actual claimed amount. For the quarter ended December 31, 2001, Maryland claimed \$2,342,768 in family planning service costs at its regular 50 percent FMAP rate (\$1,171,384 Federal share), not the enhanced rate of 90 percent (\$2,108,491 Federal share). This accounted for \$937,107 of the \$939,498 variance. The remaining \$2,391 variance was due to math errors and rounding.

The difference between the Federal share claimed and the audited Federal share is \$228,643

Federal Share			
Federal Fiscal Year	Claimed	Audited	Overpayment
2000	\$3,025,295	\$2,959,502	\$65,793
2001	12,710,758	12,434,329	276,429
2002	13,322,057	13,951,620	- 629,563
2003	15,830,010	15,485,746	344,264
2004	7,885,918	7,714,198	171,720
Total	\$52,774,038	\$52,545,395	\$228,643



STATE OF MARYLAND

DHMH

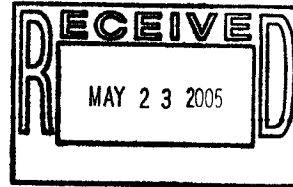
Maryland Department of Health and Mental Hygiene

201 W. Preston Street • Baltimore, Maryland 21201

Robert L. Ehrlich, Jr., Governor – Michael S. Steele, Lt. Governor – S. Anthony McCann, Secretary

May 12, 2005

Mr. Stephen Virbitsky
U.S. Department of Health and Human Services
Office of the Inspector General
Office of Audit Services
150 S. Independence Mall West, Suite 316
Philadelphia, Pennsylvania 19106-3499



RE: Response to Draft OIG Report
“Review of Family Planning Service Costs Claimed
By Maryland’s Medicaid Managed Care Program”
Report Number A-03-03-00218

Dear Mr. Virbitsky:

Thank you for permitting the Department of Health and Mental Hygiene (Department) to review your draft report issued subsequent to your audit of the above referenced matter. The Department is in concurrence with the audit findings detailed in the above referenced report.

The Department will return the Federal share of \$228,643 for incorrectly claimed family planning services costs between July 2000 and March 2004 as recommended. The Department has applied the audited family planning factor of 1.33 percent for claims after March 2004, as recommended, and will return the Federal share of \$335,999 for incorrectly claimed family planning service costs for the period of April 2004 through March 2005. The Federal share return for the above mentioned periods will be reflected on the FFY05 Third Quarter CMS 64 report.

Furthermore, the Department will utilize the audited factor of 1.33 percent for all future family planning service costs claims.

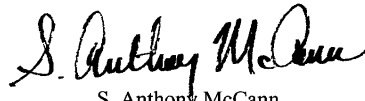
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If you have any additional questions or would like to discuss this further, please contact William Watts of my staff at (410) 767- 5203.

Sincerely,

A handwritten signature in black ink that reads "S. Anthony McCann". The signature is written in a cursive style with a large initial "S" and a stylized "M".

S. Anthony McCann
Secretary

cc: Audrey Richardson
William Watts
Thomas Russell
Ellwood Hall
Hank Fitzer
Joseph Davis

ACKNOWLEDGMENTS

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

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