



**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

OFFICE OF AUDIT SERVICES  
233 NORTH MICHIGAN AVENUE  
CHICAGO, ILLINOIS 60601

REGION V  
OFFICE OF  
INSPECTOR GENERAL

April 23, 2002

CIN: A-05-0 1-00044

Mr. Michael O'Keefe  
Commissioner  
Minnesota Department of Human Services  
444 Lafayette Road  
St. Paul, MN 55155-3815

Dear Mr. O'Keefe:

Enclosed are two copies of the U.S. Department of Health and Human Services (HHS), Office of Inspector General, Office of Audit Services' (OAS) report entitled "Audit of Medicaid Costs Claimed for Personal Care Services by the Minnesota Department of Human Services." A copy of this report will be forwarded to the action official noted below for his 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.

In accordance with the principles of the Freedom of Information Act (5 U.S.C. 552, as amended by Public Law 104-23 1), Office of Inspector General, OAS reports issued to the Department's grantees and contractors are made available to members of the press and general public to the extent information contained therein is not subject to exemptions in the Act which the Department chooses to exercise. (See 45 CFR Part 5)

To facilitate identification, please refer to Common Identification Number A-05-0 1-00044 in all correspondence relating to this report.

Sincerely,

A handwritten signature in cursive script that reads "Paul Swanson".

Paul Swanson  
Regional Inspector General for  
Audit Services

Enclosures – as stated

Direct Reply to HHS Action Official:  
Associate Regional Administrator  
Division of Medicaid & State Operations  
Centers for Medicare and Medicaid Services, Region V  
233 N Michigan, Suite 600  
Chicago, Illinois 6060 1

**Department of Health and Human Services**

**OFFICE OF  
INSPECTOR GENERAL**

**AUDIT OF MEDICAID COSTS CLAIMED  
FOR PERSONAL CARE SERVICES BY  
THE MINNESOTA DEPARTMENT OF  
HUMAN SERVICES**

**OCTOBER 1, 1998 THROUGH  
SEPTEMBER 30, 1999**



**JANET REHNQUIST**  
Inspector General

APRIL2002  
A-05-01-00044

# *Notices*

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## **THIS REPORT IS AVAILABLE TO THE PUBLIC** at <http://oig.hhs.gov>

In accordance with the principles of the Freedom of Information Act, 5 USC. 552, as amended by Public Law 104-231, Office of Inspector General, Office of Audit Services, reports are made available to members of the public to the extent information contained therein is not subject to exemptions in the Act. (See 45 CFR Part 5.)

## **OAS FINDINGS AND OPINIONS**

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





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April 23, 2002

Common Identification No. A-05-01 -00044

Mr. Michael O'Keefe  
Commissioner  
Minnesota Department of Human Services  
444 Lafayette Road  
St. Paul, Minnesota 55 155-38 15

Dear Mr.O'Keefe:

This letter report provides you with the Results of our Audit of Medicaid Costs Claimed for Personal Care Services by the Minnesota Department of Human Services (State agency). Although the State agency has established requirements for the provision of personal care services it has performed only limited program monitoring to assure that compliance requirements are met. The purpose of our review was to determine whether payments for services provided during October 1, 1998 through September 30, 1999 were: (i) provided by eligible providers (ii) medically necessary, and (iii) in compliance with the required Medicaid billing practices,

Based on a statistical sample of 100 personal care service claims, we identified 33 improper payments amounting to \$14,844 and 17 claims lacking compliance documentation for requirements that negatively affect the quality of service rather than the propriety of the payment. We believe that these later non-compliance situations may affect the well being of a large number of vulnerable recipients and should be addressed by increased State Agency monitoring of personal care program. We are recommending that the State agency recover payments for the improper claims totaling \$14,844 and develop oversight mechanisms that would ensure compliance with program requirements.

The State agency concurred with our findings and recommendations. The State agency's response is appended to this report in its entirety. (See Appendix A).

## BACKGROUND

Approximately 366,000 Minnesotans receive health care coverage annually through Medical Assistance, Minnesota's Medicaid program. Medicaid is a joint federally/state-funded program that provides necessary medical services for low-income families, children, pregnant women, and people who are elderly or have disabilities. In Minnesota, Medicaid covers home care services, which include home health agency, private duty nursing, and personal care services delivered to a recipient whose illness, injury, or physical or mental condition creates a medical need for the

either unlicensed personal care provider organizations (PCPOs) or home health agencies. Unlicensed PCPOs are enrolled to provide only personal care. Home health agencies are licensed and Medicare certified to provide a wide range of home care services including skilled nursing, home health aide and various therapies, as well, as personal care services. Since PCPOs were not licensed or Medicare certified, they received minimal program oversight. With expenditures of about \$110 million annually, personal care services account for over 71 percent of costs for Home Care Services provided in Minnesota. Personal care services are provided to the second largest number of recipients of care and have the second largest average cost per recipient, \$15,408.

The State agency oversees the Medicaid program in Minnesota, while the Centers for Medicare and Medicaid Services (CMS) administers Medicaid at the Federal level. The Minnesota Health Care Programs (MHCP) Provider Manual incorporates Federal and State requirements and serves as a reference for provider organizations. To be eligible for Medicaid reimbursement in Minnesota, personal care services must be: (i) performed by eligible providers, (ii) medically necessary, and (iii) properly billed.

## **OBJECTIVES, SCOPE, AND METHODOLOGY**

Our review was conducted in accordance with generally accepted government auditing standards. Specific objectives were to determine whether personal care services under the Medicaid program in Minnesota were: (i) provided by eligible providers (ii) medically necessary, and (iii) in compliance with the required Medicaid billing practices. To accomplish our objectives, we reviewed applicable Federal and State laws, regulations, and statutes and the MHCP Provider Manual. We also interviewed representatives from various State agency divisions.

We identified a universe of more than 211,000 personal care service claims amounting to approximately \$110 million in payments during the period October 1, 1998 through September 30, 1999. The universe included 139,932 claims paid to unlicensed PCPOs and 71,451 claims paid to home health agencies. From this universe, we selected a random sample of 100 claims totaling \$48,000. The sample included 23 claims paid to 12 licensed provider organizations and 77 claims paid to 35 unlicensed provider organizations. We visited each of the 47 provider organizations and reviewed documentation supporting provider eligibility, medical necessity and compliance with billing practices requirements.

In conjunction with State agency personnel, we developed review protocols and designed and developed checklists for the visits to providers. During our review, we documented instances of non-compliance with program rules and regulations and identified non-compliance with key program rules and regulations; such as, required PCA background checks or physician's orders, which would disqualify a claim for payment. We also assessed the sufficiency of documentation for such items as training, health assessments and other compliance requirements that could have a negative effect on the quality of services provided.

The fieldwork was performed between January and September 2001 at the State agency offices in St. Paul, Minnesota and at the selected provider organizations.

## FINDINGS AND RECOMMENDATIONS

Based on our sample results, the State had no assurance that payments for personal care service claims during the period October 1, 1998 through September 30, 1999 were proper and that compliance requirements were fully met. Applying established State requirements, we found that compliance with program requirements was not adequately supported in 50 of 100 claims by 33 providers. Of the 50 claims, 33 payments totaling \$14,844 were not eligible for payment, while the remaining 17 were not in compliance with established guidelines, but were not considered ineligible for payment. The later non-compliance instances pertain to conditions having a negative effect on the quality of services provided. Details are as follows.

### Claims Ineligible for Payment

**Provider Eligibility Requirements.** Documentation of Registered Nurse (RN) licensure, relative hardship waivers, and background checks of managerial officials, nurses, and PCAs was missing or inadequate at 22 claims by 20 providers. Inappropriate payments amounted to \$11,011. Although the State agency considers licensure, waivers, and background checks to be important, it did not assure that providers were in compliance before payment was made.

The MCHP Provider Manual, MN Rule 9505.2175, subparts 1 and 7, state, in part:

*...As a condition for payment by a program, a vendor...must document:  
Supervision by the supervising nurse...as specified in part 9505.0335, subpart 4,...*

*Subpart 4 states, in part:*

*...A personal care service to a qualified recipient must be under the supervision of a registered nurse...*

Documentation of RN licensure is necessary to ensure that the nurse is qualified to supervise the client's care.

In regard to relative hardship waivers, MN Rule 9505.2175 also requires a vendor to document the department's notice of approval or denial of a relative hardship waiver request. Since the State agency precludes spouses and discourages relatives from providing personal care services to Medicaid recipients, documentation of the initial relative and hardship waivers and a required annual review must be on file. The State's position is that a relative should serve as a PCA only in certain limited situations.

MN Statute 256B.0627, Covered Services, subdivision 1, states, in part:

*...Personal care assistant...is subject to criminal background checks... and Personal care provider organization...managerial officials are subject to a background study...*

Background checks are made to identify people with prior criminal histories, who should be barred from providing services to this vulnerable population. Allowing caregivers; convicted of

violent crimes; such as, murder, child abuse and sexual assault; to provide services would unnecessarily increase the risk of harm to some of the State's most vulnerable citizens. Because PCAs have direct daily contact with clients, background screening becomes an essential safeguard. Managerial officials and nurses, who have regular contact with recipients, also need to have background checks. Documentation of required background checks was not on file.

Five of the 22 claims were also out of compliance with medical necessity and billing practice requirements cited below.

**Medical Necessity Requirements.** We noted that 3 additional claims amounting to \$548 were not supported by required physician's orders and supervising RN care plans. The overpayment for five additional medically unnecessary claims was reported in the prior section.

MN Rule 9505.2175, subparts 1 and 7 state in part that:

*...As a condition for payment by a program, a vendor...must document:*

*The physician's initial order for services... and documentation that the physician's order has been reviewed by the physician at least once every 365 days.*

*The Department of Human Services care plan completed by the supervising registered nurse...*

Medical necessity is a determination by a physician that personal care services are needed to allow a recipient to live in a home setting. A care plan documents the services that will be provided to the recipient. Lacking these documents, the State Agency has no assurance that services provided to the recipient were eligible for payment. Required documentation was not on file.

**Compliance With Billing Practices.** We found eight additional claims, amounting to \$3,285, that were not supported by a daily record of services provided, dates and types of services, or evidence of RN supervision. The overpayment for nine additional claims with non-compliance with established billing practices was reported in the prior sections. Without the items required on the daily record, the State agency had no assurance of the level of service provided, if any. For example, the case file did not contain required information showing when the service was provided (date of service, time in and time out), what services were provided, and who provided the services.

MN Rule 9505.2175, subparts 1 and 7, state, in part:

*...As a condition for payment by a program, a vendor ...must document...the following daily documentation requirements:*

*The name of the personal care assistant providing services;  
The day, month, and year the personal care services were provided;*

*The personal care services provided;  
The personal care assistant's signature....*

The State Agency does not have a standardized format to document the daily provision of service by PCAs or RN supervision claims. We believe standardized daily records for PCA services and RN supervision are needed and would improve the documentation and support for claims made under the program.

In summary, we noted 33 claims that were out of compliance with requirements significant enough to preclude payments of \$14,844. We believe that these conditions will continue to exist unless oversight of the personal care services program is increased. This is especially true for unlicensed providers who are not subject to regular oversight visits by State officials. About one half of the unlicensed providers, that we visited, indicated that State agency officials had not made a visit.

### **Non-Compliance Eligible for Payment**

Beyond the non-compliance issues resulting in inappropriate payments, we noted 17 claims that were not in compliance with provider documentation requirements of lesser significance. Although important to the overall quality of services provided, the conditions warrant improvements at provider, rather than payment recovery. The providers could not support the existence of background checks on owners (6), successful completion of PCA training (6), completed Health Status Assessment (2) and Home Care Service Plan documents (3) and did not have adequate systems for grievance resolution and quality assurance (1). In relation to claims recommended for recovery, we also noted that support for the existence of surety bonding, liability insurance, expected prior authorizations, and adequate systems of accounting or financial management, and personnel management was not always available. Although this documentation was not required as a condition for payment, it was required by the State's program rules and regulations.

The absence of this documentation could have a negative effect on the quality of services provided. For example, surety bonding, liability insurance, accounting or financial systems, and a system of personnel management are all necessary to ensure that the business remains a going concern and employees are adequately protected. Grievance and quality assurance mechanisms, background studies on owners, PCA training, prior authorizations, and completed Health Status Assessments and Home Care Service Plan documents are all designed to protect recipients. These controls, while not critical to the process in the short run, are never-the-less required and necessary items for the long-term health of the recipient and to maintain the integrity of the program.

### **RECOMMENDATIONS**

We recommend DHS:

- Adjust payments for the improper claims totaling \$14,844.



- Develop oversight mechanisms that would ensure compliance with program rules.

State Agency Comments.

The State agency concurred with our findings and recommendations.

Sincerely yours,

A handwritten signature in cursive script that reads "Paul Swanson".

Paul Swanson  
Regional Inspector General  
for Audit Services

## **APPENDIX**



Minnesota Department of **Human Services**

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March 12, 2002

Paul Swanson  
Regional Inspector General  
for Audit Services  
Department of Health and Human Services  
Office of the Inspector General for Audit Services  
233 North Michigan Avenue, Suite 1360  
Chicago, Illinois 60601

RE: Audit of Medicaid Costs Claimed for Personal Care Services by the Minnesota  
Department of Human Services  
Audit Report Number A-05-01-00044

Dear Mr. Swanson:

Thank you for the opportunity to review and comment on your report covering personal care services in Minnesota. It is our understanding that our response will be published in the Office of the Inspector General's final audit report. We appreciate the effort of your staff to include the Department during the audit process and to assist them in developing the audit protocols. The Department concurs with the report's findings and recommendations. The Personal Care Assistance (PCA) Program has undergone numerous changes since the time period reviewed by the auditors. For example, Minnesota statute mandates the Department to develop a quality assurance process for these services. The Department believes that this initiative will greatly reduce some of the problems noted in your report.

**Recommendation #1:** Adjust payments for the improper claims totaling \$14,844

We agree with the recommendation. To meet this recommendation, we will request from your audit staff copies of their work papers. For claims that were rejected for the lack of a background check, we will further review the claims to determine if the individual claims meet any of the exceptions under Minnesota law or rule that allows employment during a background check or during reconsideration of a disqualification. Except for claims that meet the exception criteria, we will adjust the individual claim payments.

Paul Swanson  
Page 2  
March 12, 2002

Recommendation #2: Develop oversight mechanisms that would ensure compliance with program rules

We agree to develop additional oversight control for personal care assistants. The Department's plan of correction will include the following policies, procedures, or controls within our overall mandate of developing a quality assurance process:

- Modify our ongoing provider education and training programs to emphasize the problems highlighted by the audit
- Develop consumer materials that would help the consumers better understand their rights and responsibilities when using PCA services.
- Make compliance visits to provider agencies
- Develop a method to track personal care assistants and supervising nurses on claims
- Research standardizing documentation formats used by personal care assistants and supervising nurses
- Seek legislation to establish a time limit that the provider agency must meet in obtaining criminal background studies for their personal care assistants.

The Department of Human Services policy is to follow up on all audit findings to evaluate the progress being made to resolve them. Progress is monitored until full resolution has occurred. If you have any further questions, please contact David Ehrhardt, Internal Audit Director, at (651) 282-9996.

Sincerely,



Michael O'Keefe  
Commissioner

cc: Leon Siverhaus