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APR 19 2007

Report Number: A-03-05-00208

Brenda Donald
Acting Secretary
Department of Human Resources
State of Maryland
311 West Saratoga Street
Baltimore, Maryland 21201-3521

Dear Ms. Donald:

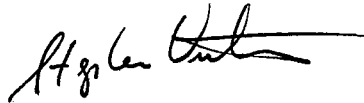
Enclosed are two copies of the Department of Health and Human Services (HHS), Office of Inspector General (OIG) final report entitled "Review of Montgomery County's Medicaid Administrative Health Services Costs Claimed by Maryland Between October 2003 and September 2004." A copy of this report will be forwarded to the action official noted below for review and any action deemed necessary.

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

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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-03-05-00208 in all correspondence.

Sincerely,



Stephen Virbitsky
Regional Inspector General
for Audit Services

Enclosures – as stated

Direct Reply to HHS Action Official:

Verlon Johnson, Acting 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 MONTGOMERY
COUNTY'S MEDICAID
ADMINISTRATIVE HEALTH
SERVICES COSTS CLAIMED BY
MARYLAND BETWEEN
OCTOBER 2003 AND
SEPTEMBER 2004**



Daniel R. Levinson
Inspector General

April 2007
A-03-05-00208

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 HHS divisions will make final determination on these matters.



EXECUTIVE SUMMARY

BACKGROUND

In 1965, Congress established Medicaid as a jointly funded State and Federal program that provides medical assistance to low-income people who qualify pursuant to 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).

In 1996, Maryland transferred responsibility for local health and social services to Montgomery County (County) creating the Department of Health and Human Services. The County reports its social service expenditures, such as Medicaid eligibility determinations, to Maryland for inclusion in a statewide cost allocation plan. Through an amendment to the cost allocation plan, effective July 2003, Maryland began claiming the cost of all other County administrative services not included in the statewide plan. These services support the County behavioral health, public health, and aging programs. This amendment was reviewed by CMS and approved by the Department of Health and Human Services Division of Cost Allocation (DCA) in September 2004. The cost allocation plan calculates the cost of services that pertain to Medicaid beneficiaries. Maryland submits these administrative costs for Federal matching funds.

Between October 2003 and September 2004, Maryland claimed \$8.7 million (\$4.6 million Federal share) for County administrative health services. Of the \$4.6 million Federal share, \$3.9 million represented costs claimed at the 50 percent rate for administrative services and \$0.7 million represented costs for administrative services claimed at the enhanced rate of 75 percent for services performed by Skilled Professional Medical Personnel (SPMP). CMS requested audits on both the statewide and County-specific cost allocation plans. We reported our findings in February 2006 on our review of the statewide cost allocation plan in report number A-03-05-00202.

OBJECTIVE

Our objective was to determine whether Maryland claimed Montgomery County's Medicaid administrative health services costs through its cost allocation plan in accordance with Federal guidance.

SUMMARY OF FINDINGS

Maryland's claim of Montgomery County's administrative health services costs conformed to the parameters of the approved cost allocation plan. However, we believe a significant control weakness exists in the current methodology since there is no way to validate that County staff performed the Medicaid-related activity generating the claim for Federal matching funds.

The County also received an additional \$225,023 in Federal matching funds for claiming the enhanced 75 percent rate for administrative services performed by SPMPs. We do not believe

the performance of these activities required the professional education and training necessary for claiming the enhanced SPMP rate.

RECOMMENDATIONS

We recommend that CMS determine:

- whether the County's current allocation methodology contains the necessary controls that can assure Medicaid related activities were performed and
- whether the County should discontinue claiming enhanced Federal funding for administrative activities performed by SPMPs.

MARYLAND COMMENTS

In its comments on our draft report, Maryland generally did not agree with our recommendations. Maryland repeated its support for the propriety of the two tools used to calculate administrative costs, a Random Moment Time Study (time study), and a penetration rate based on selected County programs. Maryland also argued that its SPMPs perform functions that require professional medical knowledge and skills that should be reimbursed at the enhanced Federal rate. Maryland's comments are included in their entirety as Appendix A.

CENTERS FOR MEDICARE & MEDICAID SERVICES COMMENTS

CMS had no comments to our draft report but wanted an opportunity to review the State's response. The CMS response is included in this report as Appendix B.

OFFICE OF INSPECTOR GENERAL RESPONSE

The current methodology for calculating County administrative costs did allow us to validate the mathematical accuracy of the claim. It did not, however, provide the controls to assure that the administrative service indicated on the time study was actually provided. This includes SPMP services. We continue to recommend that CMS determine whether the County's current allocation methodology contains the necessary controls to allow validation of the service provided and whether the County should discontinue claiming enhanced Federal funding for administrative activities performed by SPMPs.

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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).

CMS requires States to report all Medicaid expenditures on Form CMS-64, Quarterly Medicaid Statement of Expenditures for the Medical Assistance Program (CMS-64). The Federal Government pays its share of medical assistance expenditures according to a formula defined in section 1905(b) of the Act. That share, known as the Federal medical assistance percentage, depends upon each State's relative per capita income and ranges between 50 and 83 percent. The Federal share for most administrative services is 50 percent.

Cost Allocation Plan

Administrative costs for Medicaid are to be allocated in accordance with a public assistance cost allocation plan approved by the Department of Health and Human Service's Division of Cost Allocation (DCA)¹ after CMS reviews and comments on the fairness of the cost allocation methodologies. Federal regulations require that cost allocation plans conform to the accounting principles and standards in Office of Management and Budget (OMB) Circular A-87, "Cost Principles for State, Local, and Indian Tribal Governments." The circular states that costs are allocable to particular cost objectives (programs) only to the extent of the benefits received by such objectives, only allocable costs are allowable, and costs must be reasonable and necessary for proper administration of the program.

Administration of State Health and Social Services Programs in Montgomery County

In 1996, Montgomery County (County) assumed responsibility from Maryland for administration of its health and social services programs. These programs are administered by the County's Department of Health and Human Services. The County reports its social services expenditures to Maryland for inclusion in the statewide cost allocation plan. Those social services allocated to the Medicaid program, such as medical assistance eligibility determinations, are reported on Form CMS-64.

Effective July 2003, Maryland amended its cost allocation plan to include Medicaid-related administrative costs for the County's health services, which support behavioral health, public health, and aging programs. This amendment was reviewed by CMS and approved by DCA in September 2004. Maryland now claims Federal matching funds for Medicaid related administrative costs on behalf of the County's health programs.

¹The Division of Cost Allocation is part of the Office of the Deputy Secretary for Program Support.

Montgomery County's Random Moment Time Study

Attachment B, section 11.h, of OMB Circular A-87, describes the basic standards for the support of salary and wages, including substitute systems for allocating salaries and wages. Substitute systems using sampling methods, such as random moment time studies and other statistically quantifiable methods must meet acceptable statistical sampling standards and must be approved by the cognizant Federal agency. Section 11.h. further states that "Salaries and wages of employees used in meeting cost sharing or matching requirements of Federal awards must be supported in the same manner as those claimed as allowable costs under Federal awards."

The County calculated its claim for administrative costs using a Random Moment Time Study (time study), a statistical sampling method designed to capture the effort County employees expend on Medicaid-related administrative activities.

CMS requested audits on both the statewide and County-specific cost allocation plans. We reported our findings in February 2006 on our review of the statewide cost allocation plan in report number A-03-05-00202.

OBJECTIVE, SCOPE, AND METHODOLOGY

Objective

Our objective was to determine whether Maryland claimed Montgomery County's Medicaid administrative health service costs through its cost allocation plan in accordance with Federal guidance.

Scope

Our review covered \$4,591,202 in Federal funding for County administrative costs claimed by Maryland for Montgomery County's health services between October 2003 and September 2004. We reviewed internal controls considered necessary to achieve our objective.

We performed our fieldwork in the offices of the Montgomery County Department of Health and Human Services in Rockville, Maryland.

Methodology

To accomplish our objective:

- We reviewed relevant criteria including: the Act, OMB Circular A-87, "Cost Principals for State, Local, and Indian Tribal Governments," Federal Medicaid regulations, DCA Cost Allocation Plan Review Guides, CMS's State Medicaid Manual, Departmental Appeals Board (DAB) decisions, Maryland's House Bill 669² and cost allocation plan and amendments.

²House Bill 669 established the Department of Health and Human Services to assume administration of County health and social services programs from the State of Maryland.

- We reconciled Medicaid administrative costs claimed on Form CMS-64 to County accounting records.
- We reviewed supporting documentation, including payroll records, for the County’s claim for Federal fiscal year 2004.
- We verified the accuracy of the County’s calculation for claiming administrative health services costs for the period October 2003 to September 2004.
- We reviewed the accuracy of the County’s time study for the quarter ending December 2003.

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

FINDINGS AND RECOMMENDATIONS

Maryland’s claim of Montgomery County’s administrative health services costs conformed to the parameters of the approved cost allocation plan. However, we believe a significant control weakness exists in the current methodology because there is no way to validate that County staff performed the Medicaid-related activity generating the claim for Federal matching funds.

The County also received an additional \$225,023 in Federal matching funds for claiming the enhanced 75 percent rate for administrative services performed by Skilled Professional Medical Personnel (SPMP). We do not believe the performance of these activities required the professional education and training necessary for claiming the enhanced SPMP rate.

ALLOCATION METHODOLOGY

Federal Requirements

OMB Circular A-87 states that, “A cost is allocable to a particular cost objective if the goods or services involved are chargeable or assignable to such cost objective in accordance with relative benefits received.” The Circular allows the State to allocate administrative costs based on a time study or other statistically quantifiable method, but requires that: “Salaries and wages of employees used in meeting cost sharing or matching requirements of Federal awards must be supported in the same manner as those claimed as allowable costs under Federal awards.” The State must provide documentation to support that the services claimed were performed and that they benefited the program in the time frame indicated by the time study.

Montgomery County’s Allocation Methodology

During the audit period, the County based its claims for administrative costs on an allocation method performed in two phases:

- The County first determined the potential Medicaid-related portion of employee salaries. For this, the County used a quarterly time study. The time study identified 13 Medicaid-

related activities from a possible 28 categories. The County grouped these activities into five categories: direct services, outreach and eligibility activities, case coordination, program management, and other activities.

- The County then estimated the proportional Medicaid share of these salaries for each activity. The County allocated 100 percent of the employees' activity to the Medicaid program for 3 of the 13 Medicaid-related activities. The County applied the Medicaid eligibility rate it calculated for eight County-run programs to allocate the proportional Medicaid share for the remaining 10 activities.

This methodology was developed by a consultant under a contract with the County. The County paid the consultant a fee of \$196,988 for services performed between April 2005 and July 2006. The fee was based on hourly rates that ranged between \$25 and \$140 and were dependent on who performed the work and the type of task undertaken.

Insufficient Documentation to Support Time Study

Maryland's methodology did not require that the County identify the recipients for whom the service was provided. The County provided documentation that the time study was conducted, but not that the services were actually performed in the time frame established by the time study. Without a case number or other form of identification included with the time study observation, it is nearly impossible to validate that the services were actually provided, or that the services were provided to a Medicaid-eligible beneficiary. Neither DCA nor CMS required such documentation in their review and approval of the cost allocation amendment. However, OMB Circular A-87 requires States to provide documentation to support that services were performed and benefited the Medicaid program.

By approving this cost allocation plan amendment, DCA has acknowledged that these activities benefit the Medicaid program. Because the time study does not contain sufficient information to validate that the services were actually performed, it is nearly impossible to determine if this allocation is consistent with the benefits received. We believe this is a significant internal control weakness.

CLAIM FOR SKILLED PROFESSIONAL MEDICAL PERSONNEL ACTIVITIES

Federal Requirements

Section 1903(a)(2)(A) of the Act authorizes States to claim up to 75 percent of costs "attributable to compensation or training of skilled professional medical personnel, and staff directly supporting such personnel." However, in November 2002, CMS notified State Medicaid Directors that the enhanced Federal matching rate of 75 percent would no longer be available for administrative activities performed by SPMPs in school settings.

Services at Enhanced Rate

Through its time study, the County identified the following three activities performed by SPMPs:

- referral, coordination and monitoring of Medicaid covered services;
- program planning, development, and interagency coordination related to medical and Medicaid covered services; and
- quality management activities related to medical and Medicaid covered services.

The time study states that each activity “requires the education, training, and expertise of skilled professional medical personnel.” However, the time study also contains identical corresponding activities that do not require any special expertise. This gives the appearance that there is no discernable difference between the corresponding activities.

CMS believes that the administrative activities performed by SPMPs in school settings do not warrant the enhanced 75 percent matching rate since these activities do not require the professional education and training necessary for claiming SPMP costs. We believe the activities performed by County SPMPs also may not require the professional education and training necessary for claiming SPMP costs.

Between October 2003 and September 2004, the County allocated \$900,097 in SPMP expenditures to the Medicaid program. The Federal share for these expenditures was \$675,073. As a result, the County may have received an additional \$225,023 in Federal matching funds for claiming the enhanced 75 percent rate for administrative activities performed by SPMPs.

RECOMMENDATIONS

We recommend that CMS determine:

- whether the County’s current allocation methodology contains the necessary controls that can assure Medicaid related activities were performed and
- whether the County should discontinue claiming enhanced Federal funding for administrative activities performed by SPMPs.

MARYLAND COMMENTS

In its written comments on our draft report, Maryland generally did not agree with our recommendations. Regarding our first recommendation, Maryland believes that its time study used to capture the Medicaid administrative activities performed by County personnel is an acceptable method under OMB Circular A-87 and has sufficient internal controls to assure that Medicaid related activities were performed. As for our second recommendation, Maryland believes that it is in compliance with SPMP claiming requirements under the State Plan and Federal guidance. Maryland’s comments are included in their entirety as Appendix A.

CENTERS FOR MEDICARE & MEDICAID SERVICES COMMENTS

CMS responded to our draft report but had no comments. CMS wanted an opportunity to review the State's response. The full text of CMS comments is included in this report as Appendix B.

OFFICE OF INSPECTOR GENERAL'S RESPONSE

Maryland's comments did not cause us to change our findings and recommendations. The current methodology for calculating County administrative costs did allow us to validate the mathematical accuracy of the claim. However, the time study did not provide enough information to allow us to validate the nature of the administrative activity to assure the service benefited the Medicaid program. For example, the time study does not indicate the time, location, or nature of an "outreach" service that would provide CMS with the assurance that this particular activity benefited the Medicaid program. We consider this to be an internal control weakness.

Because we cannot determine the nature of the service identified on the time study, we also cannot determine whether the SPMPs perform functions that require professional medical knowledge and skills that should be reimbursed at the enhanced Federal rate.

We continue to recommend that CMS determine whether the County's current allocation methodology contains the necessary controls to allow validation of the service provided and whether the County should discontinue claiming enhanced Federal funding for administrative activities performed by SPMPs.

APPENDIXES

State of Maryland
Department of Human Resources



Maryland's Human Services Agency

Martin O'Malley
Governor

Anthony Brown
Lt. Governor

Brenda Donald
Acting Secretary

February 15, 2007

Stephen Virbitsky
Regional Inspector General for Audit Services
Department of Health & Human Services
Office of the Inspector General
150 S. Independence Mall West, Suite 316
Philadelphia, PA 19106-3499

RE: Report Number A-03-05-00208

Dear Mr. Virbitsky:

Thank you for the opportunity to review and respond to the draft audit report entitled "Review of Montgomery County's Medicaid Administrative Health Services Costs Claimed by Maryland Between October 2003 and September 2004." As of July 1, 2006, Montgomery County's Public Assistance Cost Allocation Plan was incorporated in the Department of Human Resources' federal cost allocation plan. During the audit period, Montgomery County reported the Medicaid costs questioned in the review to the Department of Health and Mental Hygiene (DHMH), the State's Medicaid Agency, based on an agreement.

Montgomery County reviewed the draft report and has commented on the validity of the facts and reasonableness of the recommendations presented. The County's response is attached.

If you have questions regarding the response, please contact my Chief Financial Officer, Mr. Henry L. Nichols at 410-767-7504.

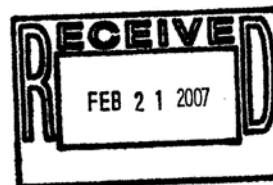
Sincerely,

A handwritten signature in cursive script, appearing to read "Brenda Donald".

Brenda Donald
Acting Secretary

Attachment

cc: Kate Garvey, Acting Director, MCDHHS
John M. Colmers, Secretary, DHMH
Larry Gray, Inspector General, DHR



Response to OIG Audit Recommendations
Report No. A-03-05-00208

1. *We recommend that CMS determine whether the County's current allocation methodology contains the necessary controls that can assure Medicaid related activities were performed.*

Response from Montgomery County Department of Health & Human Services
(MCDHHS)

MCDHHS utilizes a Random Moment Time Study (RMTS) to determine the amount of effort that employees spend on various activities, including those that are reimbursable by Title XIX. The RMTS consists of random moments of time that are assigned to individual employees. Based on the responses to these moments, the total effort of the group of participating employees is determined with a high degree of confidence that approximates the same results as having observed employees for 100% of their time at work. The results of the RMTS are used to allocate costs for certain activities in the cost allocation plan.

An observation at a random moment provides a sample of what activities are performed at a particular moment of time; every item in the universe of activities is given a fair chance of being included in the sample. A computer program that assigns random moments to employees generates the sample of moments. The wording of the RMTS email notification and the training material is presented so that the study is not biased (i.e., it is not possible to determine from the observation form which activities are reimbursable, nor are workers told about the reimbursability of each activity).

MCDHHS has implemented a random moment time study primarily to record and allocate the administrative activities performed by staff in support of the Medicaid program. The Department of Health and Human Services and the Federal government share the administrative costs to support Federal Title XIX (Medicaid) program. The purpose of the random moment study is to assist MCDHHS in accounting for the staff's time when claiming reimbursement from the Federal government for administrative support costs. Specifically, the RMTS was designed to include all allowable and non-allowable activities that might be performed by the time study participants, such as direct patient care, outreach activities, case management activities, program administration and services, and other general administrative activities. Ultimately, the results of the time study assist MCDHHS in completing its Title XIX claim quarterly, which is submitted to the Maryland Department of Health and Mental Hygiene.

MCDHHS uses the RMTS to capture administrative activities and not services. This type of time study is an acceptable method of allocation under OMB Circular A-87.

There are several acceptable methods of providing proof that the activity was performed. Most of the Medicaid administrative activities are not directed at or for the benefit of one client. The following activities benefit the Medicaid program as a whole: Medicaid

Response to OIG Audit Recommendations
Report No. A-03-05-00208

Outreach, Program and Policy Development, Oversight and Monitoring, and Training. In order to determine the amount of benefit the Medicaid program derives from the activities performed by MCDHHS, the following process is used:

- a. The Cost Pools that involve Medicaid activities and benefit the Medicaid Program are identified and the costs are accumulated in the Cost Pool. This amount is called the Cost Pool Expenditures.
- b. The individuals involved in Medicaid activities whose costs are captured in the Medicaid Cost Pools participate in the Random Moment Time Study (RMTS) and the percentage of their activities that are attributed to Medicaid Administrative Activities is determined. This percentage is called the Medicaid Activity Percentage.
- c. Where appropriate, Medicaid discount factors are applied (Medicaid Penetration Rate). Per Medicaid regulation, some activities require a discount factor (e.g., case management) and others do not (e.g., Medicaid eligibility).
- d. The costs benefiting the Medicaid program is then determined by the following formula:

$$\text{Cost Pool Expenditures} \times \text{Medicaid Activity Percentage} \times \text{Medicaid Penetration Rate} = \text{Administrative Costs benefiting the Medicaid Program}$$

The OIG stated that without a case number or other form of identification included with the time study observation, it is nearly impossible to validate that the services were actually provided, or that the services were provided to a Medicaid-eligible beneficiary. Because many of the Medicaid Administrative Activities are not directed at a particular client adding a case number to the RMTS would not give an accurate picture of the benefit derived by the Medicaid program, though the County is willing to discuss requesting this activity for the client-specific activities, if appropriate. However, the process above that takes into consideration the RMTS and the Medicaid Penetration Rate is the best way to determine the benefit Medicaid derives from the Medicaid Administrative Activities performed by the individuals in the Medicaid Cost Pools. The RMTS is an accepted method to determine the amount of time staff spend performing various Medicaid allowable activities. It is important to note that this methodology is being used to determine cost associated with performing Medicaid administrative activities, not providing Medicaid services, which have different documentation requirements.

**Response to OIG Audit Recommendations
Report No. A-03-05-00208**

MCDHHS also has several internal controls in place to make sure that: the correct people are participating in the RMTS, the responses to the RMTS are appropriate, and the participants receive regular training.

- a. During the time of the audit, the RMTS coordinator kept manual lists of the RMTS participants and their supervisors. These lists were updated daily so that if an RMTS participant moved to a position that was not in the RMTS they were removed from the RMTS survey. If new people were added to the Cost Pools that received the RMTS the person was added for the next quarter. In this way MCDHHS insured that only people performing Medicaid eligible activities were included in the RMTS. Under our new automated RMTS, the moments are sent to the person occupying the Position (PIN) at the time the RMTS moment is scheduled to be sent. This is more accurate and does not require the RMTS coordinator to manually update the list of RMTS participants. This has further strengthened the internal controls on RMTS participants.
- b. MCDHHS also performs quality control on the RMTS moment responses. A sample of all RMTS moments is taken and a questionnaire is sent to the participant asking them to give a description of what they were doing at the time they answered the RMTS moment. The RMTS coordinator reviews the responses, does follow-up with the RMTS participant if there is a concern and uses the quality control surveys as examples of correct and incorrect RMTS coding on the RMTS moments.
- c. MCDHHS also conducts RMTS training. RMTS new employee training and RMTS refresher training is offered once a quarter. In this way MCDHHS insures that all RMTS participants receive RMTS training at least once each year.

Montgomery County Government and MCDHHS take internal controls very seriously. The OIG reconciled the MCDHHS Medicaid administrative cost claims to the County accounting records, reviewed supporting documentation, including payroll records, verified the accuracy of the County's calculations for claiming administrative health activity costs, reviewed the accuracy of the County's time study and found no reportable discrepancies. Additionally, MCDHHS accounting records are periodically reviewed by Federal, State and independent auditors.

2. *We recommend that CMS determine whether the County should discontinue claiming enhanced Federal funding for administrative activities performed by SPMPs.*

Response from Montgomery County Department of Health & Human Services

Response to OIG Audit Recommendations Report No. A-03-05-00208

The OIG stated that through its time study, the County identified the following three activities performed by SPMPs:

- *referral, coordination and monitoring of Medicaid covered services;*
- *program planning, development, and interagency coordination related to medical and Medicaid covered services; and*
- *quality management activities related to medical and Medicaid covered services.*

The time study states that each activity "requires the education, training, and expertise of skilled professional medical personnel." However, the time study also contains identical corresponding activities that do not require any special expertise. This gives the appearance that there is no discernable difference between the corresponding activities.

MCDHHS believes that we are in compliance with the SPMP claiming requirements under the Maryland State Plan. The following is the MCDHHS Skilled Professional Medical Personnel Designation Procedures:

Overview

The Department of Health and Human Services has positions that meet the Skilled Professional Medical Personnel (SPMP) requirements. The following description outlines the Department of Health and Human Services designation procedures for the SPMP positions and the verification and validation process an employee who holds one of these positions must follow.

These procedures specified below describe the annual process the Montgomery County Department of Health and Human Services has put in place. In addition, an Affidavit is used to document that an employee meets the requirements for SPMP and is performing such tasks on a daily basis.

Background and Authorization for SPMP

Provision is made in Section 1903 (a) (2) of the Social Security Act for an enhanced rate of Federal Financial Participation (FFP) (75%) for a state's Medicaid costs for the compensation and training of skilled medical professionals. Authorizing regulations are found at 42 *CFR* 432.50.

While the Social Security Act does not define the term "skilled professional medical personnel," it is defined in federal regulations (at 42 *CFR* 432.2) as:

Response to OIG Audit Recommendations Report No. A-03-05-00208

...physicians, dentists, nurses and other specialized medical personnel who have professional education and training in the field of medical care or appropriate medical practice and who are in an employer-employee relationship with the Medicaid agency. It does not include other non-medical health professionals such as public administrators, medical analysts, lobbyists, senior managers or administrators of public assistance programs or the Medicaid program.

The Federal Regulatory Standards for Determining SPMP

There are five standards or limiting criteria for enhanced FFP for skilled professional medical personnel denoted in 42 CFR 432.50 (d) (1) (i - v).

- The first limitation is that the activities being performed must be directly related to the administration of the Medicaid program. This standard is met when personnel perform any of the "SPMP health-related" activities listed in the program code descriptions for the quarterly random moment administrative time study. The definition reads as follows:

Helping a variety of clients who are Medicaid eligible to gain access to medical services and to attain and/or maintain a favorable physical or mental health condition by assisting in identifying and understanding their health needs.

- The second limitation is the documented employer-employee relationship that exists between SPMP staff and the state Medicaid agency or other public agency having a contractual linkage to the state Medicaid Programs to perform Medicaid administrative activities.
- The third limitation is that the skilled professional medical personnel have a professional education and training in the field of medical care of appropriate medical practice. Professional education is defined as:

...the completion of a 2-year or longer program leading to an academic degree or certification in a medically related profession. This is demonstrated by possession of a medical license, certificate, or other document issued by a recognized National and State medical licensure or certifying organization or a degree in a medical field issued by a college or university certified by a professional medical organization. Experience

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in the administration, direction, or implementation of the Medicaid program is not considered the equivalent of professional training in the field of medical care.

- The fourth limitation is a functional limitation and it is that the job function requires professional medical knowledge and skills to perform its duties and responsibilities. The preamble explains the definition of the SPMP in relation to the individual's job responsibilities.

...the law [Section 1903(a)(2) of the Act] did not intend to provide 75% FFP merely to any staff person who has qualifying medical education and training and experience, without regard to his actual responsibilities. Rather, the function performed by the skilled medical professional medical personnel must be one that requires a level of medical expertise in order to be performed effectively. Consequently, 75% FFP is only available for those positions that require professional medical knowledge and skills, as evidenced by position descriptions, job announcements, or job classifications.

- The last limitation defines the conditions in which enhanced FFP may be claimed for directly supporting clerical staff. This refers to the skilled professional medical staff must directly supervise the supporting staff and the performance of the supporting staff's work.

**Department of Health and Human Services Skilled
Professional Medical Personnel Designation Procedures**

- The Random Moment Time Study (RMTS) administrators coordinate all SPMP designations and maintain all documentation and records of SPMP Position Identification Numbers (PINs) and SPMP staff. The PIN is a number that stays with the position regardless of the person occupying the position. Each PIN has a position description and position classification. The position description describes the duties of the position. The position classification describes the education, training and skills required for the position.
- The RMTS administrators review each position under the above criteria and determine whether the position meets the criteria for SPMP.
- The RMTS administrators maintain a roster with staff identified for SPMP designation, according to the PIN they are

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placed in.

- The RMTS administrators maintain a copy of each PIN identified for SPMP designations of the following:
 - Job Classification
 - Job Description
 - SPMP identified employee's signed affidavit
- The RMTS administrators maintain a signed affidavit that each DHHS SPMP designated staff affirming to the following:
 - *The staff person's name, job title, license number and/or educational degree, and licensing agency or institution.*
 - *The staff person performs activities that are directly related to the administration of the Medicaid program.*
 - *The staff person has professional education and training in the field of medical care or appropriate medical practice, where "professional education and training" means the completion of a 2-year or longer program leading to an academic degree or certificate in a medically related profession.*
 - *The staff person's professional education and training is demonstrated by possession of a medical license, certificate, or other document issued by a recognized National or State medical licensure or certifying organization or a degree in a medical field issued by a college or university certified by a professional medical organization, and such license or certification is current. (Experience in the administration, direction, or implementation of the Medicaid program is not considered the equivalent of professional training in a field of medical care.)*
 - *The staff person is in a position which has duties and responsibilities that require those professional medical knowledge and skills. (A State-documented employer-employee relationship must exist between the Medicaid agency and the skilled professional medical personnel and directly supporting staff).*

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- *The staff person, in the normal course of his or her daily duties and responsibilities, will use his or her professional education and training to assist in performing administrative services in support of the Medicaid Program.*
- The RMTS administrators will instruct on the proper use of SPMP activities codes at the annual refresher training.
- The RMTS administrators distribute on a regular basis the list of SPMP designated positions to the supervisors. Each supervisor reviews the list and determines whether the position should be designated as an SPMP in the RMTS.
- The RMTS administrators annually distribute the affidavit form and instructions for renewal of the SPMP designated staff. The forms are returned to the administrators in a timely fashion.
- The RMTS administrators distribute monthly the affidavit form and instructions for new hires or promotions to positions that are designated for SPMP.
- The Department of Health and Human Services staff supervisors are responsible for monitoring their staff's necessary licensing and ensuring that all staff is up-to-date with necessary licensing and certification from appropriate authorizing entities.

**Department of Health and Human Services Skilled
Professional Medical Personnel Potential Job
Classifications**

The RMTS administrators will review each employee in the following positions to assess and verify that SPMP requirements are met.

- Audiologist
- Community Health Nurse I
- Community Health Nurse II
- Nurse Manager
- Nurse Practitioner
- Psychiatrist
- Psychiatric Nurse Clinical Specialist
- Psychologist
- Psychologist Supervisor

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- Physician
- Obstetrician
- Social Worker III
- Social Worker IV
- Supervisory Therapist
- Therapist I
- Therapist II

Three of the activities in RMTS have both SPMP and non-SPMP activities codes. A person who is in a PIN that is not certified as SPMP cannot choose the SPMP activity codes. Also a person who is in an SPMP certified PIN and is not using their medical experience and knowledge at the time the RMTS moment is taking place is told during training to use the non-SPMP activity code for that moment.

The following are examples from the MCDHHS Training Materials for the first of the three activities mentioned in the OIG report:

Code 9: SPMP Referral, Coordination & Monitoring of Medical Covered Services

- ✓ Determining medical eligibility, medical necessity and sources for services required to correct or ameliorate health conditions identified by a medical provider (physical, dental, mental health, addictions)
- ✓ Identifying Medicaid covered (physical, dental, mental health or addictions) services needed to meet the complex medical needs of an individual, develop a plan of care and ensure linkages are made with other health care providers, when these activities are not part of a billable service
- ✓ Participating in case conferences or multi-disciplinary teams to provide expert consultation and coordination around an individual's health-related needs and plans
- ✓ Consulting with other professional medical staff about specific medical conditions identified with the agency's client populations or about an individual client's complex medical needs

Code 10: Non- SPMP Referral, Coordination & Monitoring of Medical Covered Services

- ✓ Gathering information needed to make referrals for medical (physical, dental, mental health, or addictions) services
- ✓ Reviewing the results of assessments and evaluations in order to coordinate and facilitate a client's access to Medicaid-covered services

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- ✓ Identifying medical or health related services required to meet a client's medical, (physical, dental, mental health, or addictions) needs
- ✓ Assisting families of medically fragile children to establish a "medical home" and to access other necessary health-related services
- ✓ Participating in case conferences or multi-disciplinary teams for the purpose of coordinating medical and health-related care and services
- ✓ In a school setting, determining the immediate health needs of a child in crisis for the purpose of linking to appropriate medical or mental health services

The following is an example of the difference between an SPMP activity and a non-SPMP activity using the two codes above:

A non-SPMP staff person meeting with a client will discuss with the client their current situation and document what the client tells them. If the client needs to see a doctor the non-SPMP staff would help the client arrange for the visit. If the client has a problem that needs a medical determination before referral, the non-SPMP staff person would hand the client off to a SPMP staff person. In this case, the non-SPMP staff person would use code 10. A SPMP staff person meeting with the client whose problem requires a medical determination before referral uses their medical knowledge to evaluate the medical necessity for the client to see a medical provider for a particular problem they are encountering. The SPMP staff person would review the client's problem with them, determine if a particular treatment is necessary, and determine the type of medical provider the client needs to see. The SPMP staff person would use Code 9 in this instance.

We believe that the 75% enhanced FFP rate for SPMP certified personnel is appropriate for the following reasons:

- a. We are in compliance with the SPMP definition found in 42 CFR 432.2
- b. We are in compliance with the five standards or limiting criteria for enhanced FFP for SMPM denoted in 42 CFR 432.50.
- c. We have distinct activity codes that only the SPMP certified personnel can use.
- d. We have a quality assurance and training program that ensures all SPMP certified personnel understand how and when to use the SPMP activity codes. and
- e. All SPMP certified personnel work for the MCDHHS.



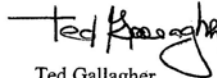
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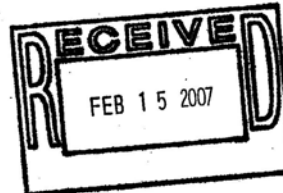
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Date: FEB 14 2007
To: Regional Inspector General for Audit Services
From: Manager, Financial Review Branch
Division of Medicaid and Children's Health
Subject: Draft Audit Report – MD #A-03-05-00208

We have reviewed the subject draft audit report and the recommendations contained therein and we have no comments. However, we would like the opportunity to review the State's responses to the recommendations prior to their submittal in the final audit report. If you should have any questions regarding this matter, please contact Francis McCullough of my staff at (215) 861-4157.


Ted Gallagher



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