DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of Inspector General

Washington, D.C. 20201

OCT 15 2008

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

FROM: Daniel R. Levinson
Inspector General

SUBJECT: Review of East Louisiana State Hospital's Hurricane-Related Uncompensated Care Claims (A-06-07-00024)

Attached is an advance copy of our final report on East Louisiana State Hospital's (the Hospital) hurricane-related uncompensated care claims. The Hospital is an institution for mental diseases. We will issue this report to the Louisiana Department of Health and Hospitals (the State agency) within 5 business days.

In response to Hurricane Katrina, section 6201 of the Deficit Reduction Act of 2005 authorized Federal funding for the total costs of medically necessary uncompensated care furnished to evacuees and affected individuals without other coverage in eligible States; i.e., States that provided care to such individuals under a hurricane-related section 1115 project. Pursuant to section 1115 of the Social Security Act, the Centers for Medicare & Medicaid Services (CMS) approved Louisiana's request for demonstration authority related to Hurricanes Katrina and Rita. For Hurricane Katrina evacuees and affected individuals, CMS approved an uncompensated care pool to reimburse providers for medically necessary services provided to individuals without other coverage. CMS subsequently authorized an uncompensated care pool for Hurricane Rita evacuees without other coverage.

Prior to approval of the uncompensated care pool plan (the UCCP plan), Louisiana published an emergency regulation stating that reimbursement from the uncompensated care pool was available for specified services covered under the State Medicaid plan. In approving the UCCP plan, CMS specified that payment would be made in accordance with both the Medicaid plan and the UCCP plan and that expenditures above those limits were not reimbursable. The Medicaid plan limits inpatient psychiatric coverage for patients in institutions for mental diseases to those who are under age 21, and in some cases under age 22, as well as to those who are age 65 or older.

Our objective was to determine whether the State agency claimed reimbursement for services provided by the Hospital in accordance with Federal and State laws and regulations and with the approved provisions of the UCCP plan.

The State agency did not always claim reimbursement for services provided by the Hospital in accordance with Federal and State laws and regulations or with the approved provisions of the UCCP plan. Of the $8,050,698 in costs claimed for services provided to 100 sampled patients, $263,243 was allowable. However, the State agency claimed $7,787,455 of unallowable costs for 98 of the 100 sampled patients, including:

- 97 patients whose care was not covered under the Medicaid plan because they were between the ages of 21/22 and 64,
- 11 patients who did not receive services on the dates claimed,
- 11 patients whose costs were paid by other sources, and
- 2 patients whose costs were reimbursed from the Hurricane Rita uncompensated care pool but who were not evacuees.

Some patients' costs were unallowable for more than one of these reasons. Based on our sample results, we estimated that the State agency claimed unallowable costs totaling at least $19,780,522.

We recommend that the State agency refund to CMS the estimated $19,780,522 in unallowable costs claimed. Because the State's authorization to obtain Federal reimbursement for hurricane-related uncompensated care has ended, we are not making procedural recommendations.

In its comments on our draft report, the State agency did not address our recommendation but disagreed with our findings. The State agency said that it intended that its expenditure authority under the section 1115 demonstration project should be interpreted to include inpatient psychiatric services for all Hospital patients, including those between ages 22 and 65. The State agency also said that it had followed its processes to ensure that payments were not duplicated.

Nothing in the State agency's comments caused us to revise our findings or recommendation. The State agency should refund the entire $19,780,522 to CMS.

If you have any questions or comments about this report, please do not hesitate to call me, or your staff may contact George M. Reeb, Assistant Inspector General for the Centers for Medicare & Medicaid Audits, at (410) 786-7104 or through e-mail at George.Reeb@oig.hhs.gov or Gordon L. Sato, Regional Inspector General for Audit Services, Region VI, at (214) 767-8414 or through e-mail at Gordon.Sato@oig.hhs.gov. Please refer to report number A-06-07-00024.

Attachment

DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of Inspector General

Office of Audit Services
1100 Commerce, Room 632
Dallas, TX 75242

OCT 20 2008

Report Number: A-06-07-00024

Mr. Alan Levine
Secretary
Louisiana Department of Health and Hospitals
628 North Fourth Street
Baton Rouge, Louisiana 70821-0629

Dear Mr. Levine:

Enclosed is the U.S. Department of Health and Human Services (HHS), Office of Inspector General (OIG), final report entitled "Review of East Louisiana State Hospital's Hurricane-Related Uncompensated Care Claims." We will forward a copy of this report to the HHS action official noted on the following page for review and any action deemed necessary.

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

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

If you have any questions or comments about this report, please do not hesitate to call me, or contact Patricia Wheeler, Audit Manager, at (214) 767-6325 or through e-mail at Patricia.Wheeler@oig.hhs.gov. Please refer to report number A-06-07-00024 in all correspondence.

Sincerely,

Gordon L. Sato
Regional Inspector General
for Audit Services

Enclosure

Direct Reply to HHS Action Official:

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

Department of Health and Human Services

OFFICE OF INSPECTOR GENERAL

REVIEW OF EAST LOUISIANA STATE HOSPITAL'S HURRICANE-RELATED UNCOMPENSATED CARE CLAIMS

Daniel R. Levinson
Inspector General

October 2008
A-06-07-00024

Office of Inspector General

http://oig.hhs.gov

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Pursuant to the principles of the Freedom of Information Act, 5 U.S.C. § 552, as amended by Public Law 104-231, Office of Inspector General reports generally are made available to the public to the extent the information is not subject to exemptions in the Act (45 CFR part 5).

OFFICE OF AUDIT SERVICES FINDINGS AND OPINIONS

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

EXECUTIVE SUMMARY

BACKGROUND

In response to Hurricane Katrina, section 6201 of the Deficit Reduction Act of 2005 authorized Federal funding for the total costs of medically necessary uncompensated care furnished to evacuees and affected individuals without other coverage in eligible States; i.e., States that provided care to such individuals in accordance with section 1115 projects.

Pursuant to section 1115 of the Social Security Act, the Centers for Medicare & Medicaid Services (CMS) approved Louisiana's request for demonstration authority related to Hurricanes Katrina and Rita. For Hurricane Katrina evacuees and affected individuals, CMS approved an uncompensated care pool to reimburse providers for medically necessary services provided to individuals without other coverage. CMS subsequently authorized the State to operate an uncompensated care pool for Hurricane Rita evacuees without other coverage. In approving the State's uncompensated care pool plan (the UCCP plan), CMS authorized reimbursement for uncompensated care provided to Katrina evacuees and affected individuals from August 24, 2005, through January 31, 2006, and to Rita evacuees from September 23, 2005, through January 31, 2006. The pool was 100 percent federally funded.

Prior to CMS's approval of the UCCP plan, Louisiana published an emergency regulation stating that reimbursement from the uncompensated care pool was available for specified services covered under the State Medicaid plan. In approving the UCCP plan, CMS specified that payment would be made in accordance with both the Medicaid plan and the UCCP plan and that expenditures above those limits were not reimbursable. The Medicaid plan limits inpatient psychiatric coverage for patients in institutions for mental diseases to those who are under age 21, and in some cases under age 22, as well as to those who are age 65 or older.

As of December 31, 2006, the Louisiana Department of Health and Hospitals (the State agency) reported $123.2 million in uncompensated care reimbursement to 834 health care providers. East Louisiana State Hospital (the Hospital), an institution for mental diseases, received $21.3 million of this reimbursement.

OBJECTIVE

Our objective was to determine whether the State agency claimed reimbursement for services provided by the Hospital in accordance with Federal and State laws and regulations and with the approved provisions of the UCCP plan.

SUMMARY OF FINDINGS

The State agency did not always claim reimbursement for services provided by the Hospital in accordance with Federal and State laws and regulations or with the approved provisions of the UCCP plan. Of the $8,050,698 in costs claimed for services provided to 100 sampled patients, $263,243 was allowable. However, the State agency claimed $7,787,455 of unallowable costs for 98 of the 100 sampled patients, including:

- 97 patients whose care was not covered under the Medicaid plan because they were between the ages of 21/22 and 64,

- 11 patients who did not receive services on the dates claimed,

- 11 patients whose costs were paid by other sources, and

- 2 patients whose costs were reimbursed from the Hurricane Rita uncompensated care pool but who were not evacuees.

Some patients' costs were unallowable for more than one of these reasons.

The State agency claimed the unallowable costs because it (1) did not have procedures to ensure that it claimed uncompensated care costs only for services covered under the Medicaid plan; (2) relied on the Hospital to verify that the costs claimed were based on actual inpatient days; (3) did not instruct the Hospital to analyze its uncompensated care claims to determine whether payments had been received from other sources; and (4) did not have procedures to verify that patients whose costs were claimed under the Hurricane Rita uncompensated care pool were, in fact, evacuees.

Based on our sample results, we estimated that the State agency claimed unallowable costs totaling at least $19,780,522.

RECOMMENDATION

We recommend that the State agency refund to CMS the estimated $19,780,522 in unallowable costs claimed. Because the State's authorization to obtain Federal reimbursement for hurricane-related uncompensated care has ended, we are not making procedural recommendations.

STATE AGENCY COMMENTS

In its comments on our draft report, the State agency did not address our recommendation but disagreed with our findings. The State agency said that it intended that its expenditure authority under the section 1115 demonstration project should be interpreted to include inpatient psychiatric services for all Hospital patients, including those between ages 22 and 65. The State agency also said that it had followed its processes to ensure that payments were not duplicated. The State agency's comments are included in their entirety as Appendix D.

OFFICE OF INSPECTOR GENERAL RESPONSE

Nothing in the State agency's comments caused us to revise our findings or recommendation. The State agency should refund the entire $19,780,522 to CMS.

TABLE OF CONTENTS

INTRODUCTION

BACKGROUND

Pursuant to Title XIX of the Social Security Act (the Act), the Medicaid program provides medical assistance to low-income individuals and individuals with disabilities. The Federal and State Governments jointly fund and administer the Medicaid program. At the Federal level, the Centers for Medicare & Medicaid Services (CMS) administers the program. Each State administers its Medicaid program in accordance with a CMS-approved State plan. Although the State has considerable flexibility in designing and operating its Medicaid program, it must comply with applicable Federal requirements.

Section 1115 Hurricane-Related Demonstration Projects

Section 1115 of the Act permits the Secretary to authorize demonstration projects to promote the objectives of the Medicaid program. Pursuant to section 1115, CMS may waive compliance with any of the requirements of section 1902 of the Act and provide Federal matching funds for demonstration expenditures that would not otherwise be included as expenditures under the State Medicaid plan.

In response to Hurricane Katrina, CMS announced that States could apply for section 1115 demonstration projects to ensure the continuity of health care services for hurricane victims. A State with an approved hurricane-related section 1115 demonstration project was eligible under section 6201 of the Deficit Reduction Act of 2005 for Federal payment of the total costs of uncompensated care incurred for medically necessary services and supplies furnished to Hurricane Katrina evacuees and affected individuals who did not have other coverage for such assistance.

Louisiana's Approved Uncompensated Care Pool Plan

In a November 10, 2005, letter, CMS approved Louisiana's request for section 1115 demonstration authority and an uncompensated care pool to reimburse providers for medically necessary services and supplies for Hurricane Katrina evacuees who did not have insurance coverage or other available options. In a March 24, 2006, letter, CMS approved Louisiana's uncompensated care pool plan (the UCCP plan) and authorized reimbursement from the pool for services provided to Katrina evacuees and affected individuals from August 24, 2005, through January 31, 2006. The UCCP plan proposed to reimburse providers that incurred uncompensated care costs for which there was no other source of payment. In the approval letter, CMS specified that payment would be made in accordance with both the State Medicaid plan and the UCCP plan and that expenditures above those limits were not reimbursable.

In an April 28, 2006, letter, CMS also authorized Louisiana to operate an uncompensated care pool to reimburse providers serving Hurricane Rita evacuees who were not eligible for Medicaid or the State Children's Health Insurance Program and who did not have other health insurance coverage. The letter required the State to adhere to the same methodology for operations and program integrity as described in the Hurricane Katrina approval. The Hurricane Rita pool was

approved for medically necessary services provided to evacuees from September 23, 2005, through January 31, 2006. The pool was funded through an interagency agreement between CMS and the Federal Emergency Management Agency's National Disaster Medical System and was limited to the funding available under that agreement.

Louisiana's UCCP plan listed the broad categories of services that would be covered through the uncompensated care pool, including inpatient psychiatric services, and stated that payments would be based on the Louisiana Medicaid rate. Only Medicaid providers were eligible for reimbursement. The UCCP plan also provided that all claims would be reviewed prior to any payment and that applicable Federal and State laws and regulations would govern the prepayment investigation.

On March 20, 2006, prior to CMS's approval of the UCCP plan, the State published an emergency regulation to govern reimbursement from the uncompensated care pool.[1] Pursuant to the regulation, reimbursement was available for specified services covered under the State Medicaid plan, including inpatient psychiatric services. The State later published a final rule affirming that coverage through the uncompensated care pool was available for services covered under the Medicaid plan.[2]

The Louisiana Department of Health and Hospitals (the State agency) administered the uncompensated care pool, which was 100 percent federally funded. As of December 31, 2006, the State agency reported $123.2 million in uncompensated care reimbursement to 834 health care providers, including State-operated inpatient psychiatric facilities. East Louisiana State Hospital (the Hospital), located in Jackson, received $21.3 million of this reimbursement based on claims that the State agency submitted to CMS.

Reimbursement to Institutions for Mental Diseases

The Act provides that Federal reimbursement is not available under the State Medicaid plan for services furnished to certain patients in institutions for mental diseases (IMD). Clause (B) in the paragraph following section 1905(a)(28) of the Act excludes from the definition of medical assistance "any such payments with respect to care or services for any individual who has not attained 65 years of age and who is a patient in an institution for mental diseases." However, the State may opt to cover inpatient psychiatric hospital services for individuals under age 21. Pursuant to section 1905(h) of the Act, a State that elects to cover these services for individuals under age 21 may, in some cases, cover individuals up to age 22. Louisiana's approved Medicaid plan includes such coverage. Therefore, Federal reimbursement to the State is not available for services furnished to IMD patients between the ages of 21/22 and 64 under the Medicaid State plan.

Federal regulations (42 CFR § 435.1010) define an IMD as a hospital, nursing facility, or other institution of more than 16 beds that is primarily engaged in providing diagnosis, treatment, or care of persons with mental diseases.

[1] 32 La. Reg. 377 (March 20, 2006).

[2] 32 La. Reg. 1902 (October 20, 2006) (to be codified at La. Admin. Code, Title 50, part XXII, Chapters 41–53).

East Louisiana State Hospital

The Hospital is a State-operated inpatient psychiatric facility that provides services to individuals age 18 or over who are chronically mentally ill or who require intermediate or long-term hospitalization. The Hospital meets the definition of an IMD.

During our audit period, the Hospital received reimbursement of $581.11 per day for inpatient psychiatric services. Prior to and following the dates of service covered by the UCCP plan, costs incurred by the Hospital for treating patients who had no other source of payment were paid with State funds.

OBJECTIVE, SCOPE, AND METHODOLOGY

Objective

Our objective was to determine whether the State agency claimed reimbursement for services provided by the Hospital in accordance with Federal and State laws and regulations and with the approved provisions of the UCCP plan.

Scope

Our audit covered the $21.3 million in uncompensated care claims that the State agency paid to the Hospital and claimed for Federal reimbursement as of December 31, 2006. These claims had dates of service from August 24, 2005, through January 31, 2006.

We did not review the State agency's or the Hospital's overall internal control structures. We limited our review to obtaining an understanding of the policies and procedures used to identify and claim uncompensated care costs, account for billable inpatient days, and collect payments for patients who had another source of income.

We conducted our fieldwork at the Hospital in Jackson, Louisiana, and at the State agency in Baton Rouge, Louisiana.

Methodology

To accomplish our objective, we:

- reviewed applicable Federal and State laws and regulations, the approved State Medicaid plan, CMS approval letters, the approved section 1115 demonstration, and the approved UCCP plan;

- interviewed State agency and Hospital officials to (1) gain an understanding of claim procedures and supporting documentation and (2) determine the source of payment for the costs incurred for treating sampled patients before and after the dates of service claimed under the UCCP plan;

- obtained the State agency's database of uncompensated care claims paid to providers as of December 31, 2006, which totaled $123.2 million;

- verified that all paid uncompensated care claims were included on the "Quarterly Medicaid Statement of Expenditures for the Medical Assistance Program," Form CMS-64, for our audit period;

- extracted from the State agency's database a population of 266 patients with claims exceeding $1,000 each and totaling $21.3 million paid to the Hospital for the period August 24, 2005, through January 31, 2006;[3]

- selected, as detailed in Appendix A, a simple random sample of 100 of these patients, representing claims totaling $8,050,698;

- reviewed the claims and supporting documentation (patient financial files and medical records) and Medicare's Common Working File for each sampled patient to verify that:

    - the services claimed were covered under the Medicaid plan,

    - the patient received services on the dates of service claimed and the claims were for eligible dates of service,

    - the patient did not have another source of payment available for the services under Medicare, Medicaid, private insurance, or a State-funded health insurance program,

    - the amount claimed for the patient was accurately calculated,

    - the patient's home address was within one of the individual assistance designation counties listed in an attachment to the UCCP plan, and

    - the patient was actually an evacuee if costs were claimed under the Hurricane Rita uncompensated care pool; and

- estimated, based on the sample results, the unallowable costs in the population of patients, as shown in Appendix B.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

[3]Claims of $1,000 or less amounted to $1,743 for the period.

FINDINGS AND RECOMMENDATION

The State agency did not always claim reimbursement for services provided by the Hospital in accordance with Federal and State laws and regulations or with the approved provisions of the UCCP plan. Of the $8,050,698 in costs claimed for services provided to 100 sampled patients, $263,243 was allowable. However, the State agency claimed $7,787,455 of unallowable costs for 98 of the 100 sampled patients, including:

- 97 patients whose care was not covered under the Medicaid plan because they were between the ages of 21/22 and 64,
- 11 patients who did not receive services on the dates claimed,
- 11 patients whose costs were paid by other sources, and
- 2 patients whose costs were reimbursed from the Hurricane Rita uncompensated care pool but who were not evacuees.[4]

Appendix C shows a breakdown, by sampled patient, of the reasons for the unallowable costs.

The State agency claimed the unallowable costs because it (1) did not have procedures to ensure that it claimed uncompensated care costs only for services covered under the Medicaid plan; (2) relied on the Hospital to verify that the costs claimed were based on actual inpatient days; (3) did not instruct the Hospital to analyze its uncompensated care claims to determine whether payments had been received from other sources; and (4) did not have procedures to verify that patients whose costs were claimed under the Hurricane Rita uncompensated care pool were, in fact, evacuees.

Based on our sample results, we estimated that the State agency claimed unallowable costs totaling at least $19,780,522.

UNALLOWABLE COSTS FOR SAMPLED PATIENTS

Services Not Covered Under the Medicaid Plan

In approving the UCCP plan, CMS specified that payment would be in accordance with both the Medicaid plan and the UCCP plan and that expenditures above those limits were not reimbursable. Pursuant to 32 La. Reg. 1902, reimbursement from the uncompensated care pool was available for inpatient psychiatric services covered under the Medicaid plan. The Medicaid plan limits IMD inpatient psychiatric coverage to individuals who are (1) under age 21, or under age 22 if the individual was receiving such services immediately preceding the date on which he or she reached age 22, or (2) age 65 or older.

[4]Some patients' costs were unallowable for more than one reason. We questioned these costs only once.

The State agency inappropriately claimed costs for 97 patients age 23 through 64 because it did not have procedures to ensure that it claimed uncompensated care costs only for services covered under the Medicaid plan.

Services Not Received

Section I.C of the UCCP plan stated: "Payments will be made only for covered services provided to eligible populations . . . ." Section 1.D of the UCCP plan stated that an attestation would be required from providers. The attestation form, which was signed by the acting assistant secretary of the State agency's Office of Mental Health, stated: "I certify that on this invoice . . . the goods, services and/or supplies . . . were actually provided to the above listed individual . . . ."

The State agency inappropriately claimed costs for 11 sampled patients who did not actually receive the services claimed. These patients were away from the Hospital on overnight passes for a total of 81 days claimed. According to State agency officials, if a patient was not in his or her bed at midnight, the Hospital should not have been reimbursed for that day.[5]

To ensure the validity of uncompensated care costs claimed on behalf of the Hospital, the State agency provided the Hospital with a list of potentially eligible patients and their potential dates of service and instructed the Hospital to perform random checks to verify the accuracy of the list. The Hospital confirmed that the individuals on the list were patients during the specified periods of service. However, the Hospital did not check patient records for days when patients were away on overnight passes and made no adjustments to the State agency's list to account for those days. As a result, the State agency claimed costs for services that were not received.

Reimbursement Received From Other Sources

Section 1.B of the UCCP plan limited reimbursement to services provided to evacuees and affected individuals for whom there were no other sources of payment. Section 1.D of the UCCP plan stated that an attestation would be required from providers. The attestation form, which was signed by the acting assistant secretary of the State agency's Office of Mental Health, stated: "I certify that no payment, either in full or in part, has been received from another entity on the above listed claims."

The State agency inappropriately claimed costs for 11 sampled patients for whom the Hospital had received payments from other sources. Specifically, the Hospital had received Medicare payments for 10 patients, Medicaid payments for 6 patients' Medicare coinsurance payments, and payments from 5 patients.[6] The Hospital did not offset its uncompensated care claims by the amounts of these payments.

[5]In administering the Medicaid program, the State agency followed Medicare guidance regarding billable patient days for inpatient psychiatric facilities (IPF) under the IPF prospective payment system. According to CMS's "Medicare Claims Processing Manual," Pub. No. 100-04, Chapter 3, section 190.10.7, an IPF is to account for interrupted stays by counting from the day of discharge (e.g., the day that the patient leaves the facility on a pass) through the last day that the patient was not present in the facility at midnight. The facility should not be reimbursed for those days.

[6]For nine patients, the Hospital received reimbursement from more than one other source.

The State agency did not instruct the Hospital to analyze its uncompensated care claims to determine whether payments had been received from other sources. The Hospital also was not aware that it should have offset the claims by payments received from other sources.

Hurricane Rita Costs Claimed for Nonevacuees

In its approval letter for the Hurricane Rita uncompensated care pool, CMS authorized the State agency to use the pool to reimburse providers for the costs of services provided to Hurricane Rita evacuees.

The State agency inappropriately claimed costs for two patients whose costs were reimbursed from the Hurricane Rita uncompensated care pool but who were not evacuees. One of the individuals had been an inpatient at the Hospital since 1990 and the other since 1999.

To determine which patients' costs were eligible for reimbursement under the UCCP plan, the State agency electronically identified "free care" or "no pay" patients whose last-known residences were in designated disaster areas and who had received services during the dates eligible for uncompensated care pool reimbursement. However, the State agency did not have procedures to verify that patients whose costs were claimed under the Hurricane Rita uncompensated care pool were, in fact, evacuees.

TOTAL UNALLOWABLE REIMBURSEMENT

The State agency claimed $7,787,455 in unallowable costs for 98 of the 100 sampled patients. These costs were unallowable because they did not comply with Federal and State laws and regulations or with the approved provisions of the UCCP plan. Based on these sample results, we estimated that the Hospital received at least $19,780,522 of unallowable reimbursement.

RECOMMENDATION

We recommend that the State agency refund to CMS the estimated $19,780,522 in unallowable costs claimed. Because the State's authorization to obtain Federal reimbursement for hurricane-related uncompensated care has ended, we are not making procedural recommendations.

STATE AGENCY COMMENTS

In its comments on our draft report, the State agency did not address our recommendation but disagreed with our findings. The State agency said that, under its section 1115 demonstration project, CMS permitted Louisiana to claim Federal reimbursement for "all expenditures for medical services provided to individuals who are receiving inpatient psychiatric services under the demonstration project in freestanding facilities." The State agency stated that it intended that this expenditure authority should be interpreted to include inpatient psychiatric services for all Hospital patients, including those between ages 22 and 65.

The State agency said that it had followed the processes outlined in its approved section 1115 demonstration project and approved UCCP plan and that it had clear procedures to ensure that it

claimed uncompensated care costs only for services covered under the State Medicaid plan. The State agency explained that the benefits contained in its approved section 1115 demonstration project were broadly defined as those of the State Medicaid plan and included inpatient psychiatric services. The State agency said that it intended to get 100-percent Federal funds for the psychiatric services provided at the Hospital. Furthermore, the State agency said that CMS had stated that the uncompensated care pool could be used to provide reimbursement for benefits not covered under Title XIX in the State.

With respect to our finding that the State agency claimed reimbursement for patients whose costs were paid by other sources, the State agency said that it had followed its processes to ensure that payments were not duplicated.

The State agency's comments are included in their entirety as Appendix D.

OFFICE OF INSPECTOR GENERAL RESPONSE

The State agency furnished no evidence to support its contention about the intent of the demonstration provision and no evidence that Hospital patients were included in discussions with CMS. Furthermore, the State agency's intention is not evident in the broad wording of the expenditure authority. Thus, we have no basis to conclude that CMS approved Federal reimbursement for services provided to Hospital patients between ages 22 and 65.

As to the State agency's assertion that CMS had stated that the uncompensated care pool could be used to provide reimbursement for benefits not covered under Title XIX in the State, the State's own emergency rule, issued on March 20, 2006, limited uncompensated care pool coverage to benefits under the State Medicaid plan. The State's rule specified that "reimbursement is available under the UCC [uncompensated care] pool for the following services covered under the Louisiana Medicaid State Plan." The covered services included "inpatient psychiatric services (free-standing psychiatric hospitals and distinct part psychiatric units)." Like other covered services listed in the State's emergency rule, inpatient psychiatric services furnished by psychiatric hospitals and distinct-part psychiatric units are covered under Louisiana's Medicaid State plan. However these services are covered under the State plan only for individuals over age 65 and under age 21/22.

In addition, our audit demonstrated that the State agency's processes for preventing and correcting duplicate payments were not effective. The State agency provided no evidence that the Hospital did not bill other payers or receive reimbursement from other sources.

Nothing in the State agency's comments caused us to revise our findings or recommendation. The State agency should refund the entire $19,780,522 to CMS.

APPENDIXES

SAMPLE DESIGN AND METHODOLOGY

AUDIT OBJECTIVE

Our objective was to determine whether the Louisiana Department of Health and Hospitals claimed reimbursement for services provided by East Louisiana State Hospital (the Hospital) in accordance with Federal and State laws and regulations and with the approved provisions of the uncompensated care pool plan (the UCCP plan).

POPULATION

The population consisted of the 266 patients who received uncompensated care services or supplies from August 24, 2005, through January 31, 2006, for which the Hospital was paid more than $1,000.

SAMPLING FRAME

The sampling frame was a database of hurricane-related uncompensated care claims with dates of service from August 24, 2005, through January 31, 2006, grouped by patient. The sampling frame was limited to those patients for whom the Hospital was paid more than $1,000.

SAMPLE UNIT

The sample unit was a patient who received uncompensated care services or supplies for which the Hospital received payment.

SAMPLE DESIGN

We used a simple random sample.

SAMPLE SIZE

We selected a sample of 100 patients.

SOURCE OF THE RANDOM NUMBERS

We generated the random numbers using the Office of Inspector General, Office of Audit Services, RAT-STATS statistical sampling software.

METHOD OF SELECTING SAMPLE ITEMS

We consecutively numbered the sample units in the frame from 1 through 266. After generating 100 random numbers, we selected the corresponding frame items for our sample.

CHARACTERISTICS TO BE MEASURED

We determined whether the uncompensated care claims for each sampled patient complied with Federal and State laws and regulations and with the approved provisions of the UCCP plan.

ESTIMATION METHODOLOGY

We used RAT-STATS to estimate the amount of unallowable payments.

APPENDIX B

SAMPLE RESULTS AND ESTIMATES

Sample Results

Sampling Frame Size	Sample Size	Value of Sample	Number of Patients With Unallowable Costs	Value of Unallowable Costs
266	100	$8,050,698	98	$7,787,455

Estimates

(Limits Calculated for a 90-Percent Confidence Interval)

	Estimated Unallowable Costs
Point estimate	$20,714,631
Lower limit	$19,780,522
Upper limit	$21,648,739

REASONS FOR UNALLOWABLE COSTS FOR EACH SAMPLED PATIENT

1	Patient was not covered under State Medicaid plan.
2	Patient did not receive services.
3	Patient's cost was paid by other sources.
4	Patient's cost was reimbursed from the Hurricane Rita uncompensated care pool, but patient was not an evacuee.

Office of Inspector General Review Determinations on the 100 Sampled Patients

Sampled Patient	1	2	3	4	No. of Deficiencies
1	X				1
2	X				1
3	X				1
4	X				1
5	X				1
6	X	X	X		3
7	X				1
8	X		X		2
9	X				1
10	X				1
11	X				1
12	X				1
13	X				1
14	X				1
15	X				1
16	X				1
17	X				1
18	X				1
19	X				1
20	X	X			2
21		X			1
22	X				1
23	X				1
24	X	X			2
25	X				1
26	X				1
27	X				1
28	X		X		2
29	X				1
30	X				1
31	X				1
32	X				1

Sampled Patient	1	2	3	4	No. of Deficiencies
33	X				1
34	X				1
35	X		X		2
36	X				1
37	X	X	X		3
38	X				1
39	X				1
40	X				1
41	X				1
42	X				1
43	X				1
44	X				1
45	X				1
46	X				1
47	X				1
48	X				1
49					0
50	X				1
51	X				1
52	X	X			2
53	X	X			2
54	X				1
55	X				1
56	X				1
57	X				1
58	X				1
59	X				1
60	X				1
61	X				1
62	X				1
63	X				1
64	X				1
65	X	X	X		3
66	X				1
67	X				1
68	X				1
69	X				1
70					0
71	X				1
72	X				1
73	X				1
74	X				1

Sampled Patient	1	2	3	4	No. of Deficiencies
75	X			X	2
76	X				1
77	X			X	2
78	X				1
79	X				1
80	X				1
81	X	X			2
82	X		X		2
83	X				1
84	X	X	X		3
85	X				1
86	X		X		2
87	X				1
88	X	X			2
89	X				1
90	X				1
91	X				1
92	X				1
93	X				1
94	X				1
95	X		X		2
96	X				1
97	X				1
98	X				1
99	X		X		2
100	X				1
Total	**97**	**11**	**11**	**2**	**121**

Bobby Jindal
GOVERNOR

STATE OF LOUISIANA
DEPARTMENT OF HEALTH AND HOSPITALS

LOUISIANA
Department of HEALTH and HOSPITALS
Alan Levine
SECRETARY

June 18, 2008

Mr. Gordon L. Sato, Regional Inspector General
Department of Health & Human Services
Office of Audit Services
1100 Commerce, Room 632
Dallas, Texas 75242

RE: Report No. A-06-07-00024

Dear Mr. Sato:

This correspondence acknowledges receipt of your office's draft report entitled "Review of East Louisiana State Hospital's Hurricane-Related Uncompensated Care Claims", dated May 20, 2008. The draft report recommends that the State agency refund to CMS an estimated $19,780,522 in alleged unallowable costs claimed. The Louisiana Department of Health and Hospitals (LDHH) appreciates the opportunity to provide written comments regarding the recommendations contained in the report. For reasons detailed in the following paragraphs, LDHH respectfully disagrees with the position of your office that Louisiana Medicaid made improper payments to East Louisiana State Hospital (ELSH) from the uncompensated care cost (UCC) pool formed as a result of Hurricanes Katrina and Rita. To the contrary, Louisiana Medicaid meticulously followed the processes outlined in its approved Section 1115 demonstration project and its approved UCC pool plan. In following these processes, it is indisputable that Louisiana had clear procedures to ensure that it claimed uncompensated costs only for services covered under the Medicaid plan.[1]

In response to Hurricane's Katrina and Rita, Section 6201 of the Deficit Reduction Act (DRA) of 2005 authorized federal funding for the total costs of medically necessary uncompensated care furnished to evacuees and affected individuals. In order to receive this 100% federal funding, states had to operate pursuant to a Section 1115 project. Louisiana submitted a Section 1115 waiver for Katrina evacuees that was memorialized in correspondence dated November 1, 2005, from Dr. Fred Cerise, then Secretary of LDHH, to Dr. Mark McClellan, then Administrator for CMS. Attached to this waiver request was a draft Louisiana Hurricane Relief Waiver Uncompensated Pool Plan. The purpose of this pool, as made clear at the time, was to give the State access to federal funds that could be used to pay for medical services provided to individuals not eligible for Louisiana Medicaid. The specifics included Pool Coverage Eligibility Determinations, the definition of eligible populations, broken down by evacuee status, income and medical necessity, the definition of available benefits, and the eligibility process. The application packet of November 1, 2005, also contained a Multi-State Section 1115 Demonstration Application template. Finally, this packet contained CMS Special Terms and Conditions.

[1] Inpatient Psychiatric Services were clearly identified as services covered under the Louisiana Medicaid State Plan

According to this packet and attachments, the benefits of this project were broadly defined as those of the State plan Title XIX program in Louisiana. This definition did indeed include inpatient psychiatric services. Further, the attachments to the packet clearly listed what Louisiana determined to be Louisiana Medicaid costs not otherwise matchable that it believed would be matched under this demonstration project. Included therein were "all expenditures for medical services provided to individuals who are receiving inpatient psychiatric services under the demonstration project in freestanding facilities."

CMS approved Louisiana's request for 1115 demonstration authority, which included the UCC pool methodology, via letter dated November 10, 2005. Therein, CMS specifically approved the UCC pool methodology for Louisiana in order to reimburse providers that incur uncompensated care costs for medically necessary services and supplies for evacuees. CMS expressly stated that the pool may also be used to provide reimbursement for benefits not covered under Title XIX in the State. Attached to this approval was the above mentioned explanation of Louisiana Medicaid costs not otherwise matchable which included the same language. Finally, in a letter dated March 24, 2006, CMS provided express approval for Louisiana's UCC pool plan for Katrina evacuees. Attached to the letter was Louisiana's Hurricane Relief UCC Pool Plan for Katrina and Rita. In that letter, CMS clearly authorized Louisiana to reimburse providers that incurred uncompensated care costs for medically necessary services and medically necessary supplies for Katrina evacuees and affected individuals who do not have other coverage under Medicare, Medicaid, SCHIP, private insurance, or under State-funded health insurance programs. It was clearly stated that payment for **services** reimbursed from the pool will be in accordance with Louisiana's Medicaid State plan in place on August 24, 2005 and the UCCP. Further, the UCC pool plan contained a specific section that outlined what would be considered allowable payments. Simply put, allowable payments were defined as payments for "covered services" provided to eligible populations. "Covered services" were defined in subsection C (1) and included, among other things, inpatient psychiatric services.

One of the providers participating in the UCC pool was ELSH. ELSH is a freestanding facility that provides inpatient psychiatric services. It provides these services to a wide range of ages, including individuals aged 22 to 65. Louisiana is aware that federal matching funds are not available under Title XIX for services provided in institutions for mental diseases (IMD) for this age group. However, Louisiana, in the case in question, was not, and is not, seeking federal matching funds under its State Plan for these services. At each stage of this process, Louisiana Medicaid made it clear that it was seeking a demonstration "waiver" to lead to the formation of a UCC pool with 100% federal dollars. It is obvious that this was not the normal Medicaid funding process involving state and federal matching funds. On at least two separate occasions, Louisiana Medicaid provided CMS with a statement outlining Louisiana Medicaid costs not otherwise matchable.

The clear intent of this statement was to get 100% funds for the psychiatric services provided at ELSH. Louisiana Medicaid would not have to seek any authority to make payments for the 21 and under population, or the over 65 individuals, as it already is allowed to make payments for these services under the current provisions. These services would never be contained "Louisiana Medicaid costs not otherwise matchable" as they are expressly matchable. The main services that would not otherwise be matchable are clearly then inpatient psychiatric services provide in freestanding facilities that would fall into the definition of IMDs.

Mr. Gordon Soto
June 18, 2008
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This demonstration project was focused on delivering services to evacuees and affected citizens where Louisiana could find them as the storms spread them out all over the country. The demonstration project, and participation in the UCC pools, was not tied to the location of service delivery. The theme of this mission was to insure quick delivery of needed services. One such service was inpatient psychiatric services in freestanding facilities. At such a time, the service delivery site was not contemplated and such was clearly communicated to CMS. Louisiana Medicaid's main goal was to provide services to individuals in need that did not have coverage otherwise. Louisiana followed its processes in place to ensure that duplicate payments were not made to people otherwise covered. In fact, Louisiana Medicaid denied approximately 20% of claims due to coverage related issues. We believe it to be indisputable that Louisiana had procedures in place to ensure that it claimed uncompensated care costs only for services covered under the Medicaid plan.

If you have any questions or concerns please feel free to contact Jerry Phillips, Medicaid Director at 225-342-3891.

Sincerely,

Alan Levine
Secretary