



DEPARTMENT OF HEALTH AND HUMAN SERVICES
OFFICE OF AUDIT SERVICES
233 NORTH MICHIGAN AVENUE
CHICAGO, ILLINOIS 60601

REGION V
OFFICE OF
INSPECTOR GENERAL

September 4, 2002

Common Identification Number A-05-02-00048

Mr. Don A. Gilbert
Commissioner
Texas Health and Human Services Commission
P.O. Box 13247
Austin, Texas 78711-3247

Dear Mr. Gilbert:

Enclosed are two copies of the U.S. Department of Health and Human Services (HHS), Office of Inspector General, Office of Audit Services' (OAS) report entitled "Audit of Medicaid Payments for Oxygen Related Durable Medical Equipment and Supplies" for the period January 1, 1998 through December 31, 2000. A copy of this report will be forwarded to the action official noted below for his review and any action deemed necessary.

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

In accordance with the principles of the Freedom of Information Act (5 U.S.C. 552, as amended by Public Law 104-231), OIG, OAS reports issued to the Department's grantees and contractors are made available to members of the press and general public to the extent information contained therein is not subject to exemptions in the Act which the Department chooses to exercise. (See 45 CFR Part 5.)

To facilitate identification, please refer to Common Identification Number A-05-02-00048 in all correspondence relating to this report.

Sincerely,

Paul Swanson
Regional Inspector General
for Audit Services

Enclosures - as stated

Direct Reply to HHS Action Official:
Associate Regional Administrator
Centers for Medicare and Medicaid Services, Region VI
Division of Medicaid and State Operations
1301 Young Street
Dallas, Texas 75202

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**AUDIT OF MEDICAID PAYMENTS FOR
OXYGEN RELATED DURABLE
MEDICAL EQUIPMENT AND SUPPLIES**

**JANUARY 1, 1998 THROUGH
DECEMBER 31, 2000**

**TEXAS HEALTH AND
HUMAN SERVICES COMMISSION
AUSTIN, TEXAS**



JANET REHNQUIST
Inspector General

SEPTEMBER 2002
A-05-02-00048



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Mr. Don A. Gilbert
Commissioner
Texas Health and Human Services Commission
P.O. Box 13247
Austin, Texas 78711-3247

Dear Mr. Gilbert:

This final report presents the results of our Audit of Medicaid Payments for Oxygen Related Durable Medical Equipment (DME) and Supplies. The objective of our review was to determine if the Texas Medicaid program was reimbursing providers amounts in excess of State Medicare limits for DME and supplies used to provide oxygen. Based on our review of payments for Medicaid DME and supply claims, with dates of service during our audit period of January 1, 1998 through December 31, 2000, we found that the Medicaid program was overcharged approximately \$3.2 million due to excessive Medicaid reimbursement rates.

We determined that providers received reimbursement for DME and supplies at rates that exceeded the amount necessary to enlist the participation of an adequate number of vendors. The higher reimbursements occurred because the State agency set the reimbursement limits for these items above the dollar amount allowed for similar items under the Medicare program.

We are recommending that the State refund \$3,181,518 (Federal share \$1,969,704) for excessive Medicaid reimbursements to providers and limit the maximum allowable price for DME and supplies to amounts equal to or less than the Medicare allowable amount for the same items.

In a written response dated July 22, 2002, a State agency official generally concurred with our recommendations. The response is summarized in the body of this report and is included in its entirety as an Appendix to this report.

BACKGROUND

The Medicaid program is jointly administered by the Federal government, through the Centers for Medicare and Medicaid Services (CMS), and by the States, through their designated State agency. Within broad guidelines established by Federal statutes, regulations and policies, each state determines the type, amount, and scope of services and sets payment rates for services.

The CMS also administers the Medicare program, which generally provides medical care for the elderly. The CMS prepares a fee schedule for DME, prosthetics, orthotics, and supplies provided under the Medicare program. The fee schedule is updated, annually and as needed, by a regional carrier responsible for a specific geographic area. The fee schedule is segregated by CMS Common Procedure Coding System (HCPCS) numbers. Groups of HCPCS numbers are associated with specific categories of services. The Oxygen category contains 18 specific HCPCS numbers.

The Texas Medicaid State Plan provides that the single state agency or its designee make direct vendor payments to providers of durable medical equipment participating in the Medicaid program. Participating providers are reimbursed within the limits of the maximum allowable fee schedule established by the single state agency or its designee. The maximum allowable fee schedule for durable medical equipment is based on the lesser of the following: (i) the billed amount; or (ii) the Medicare fee schedule, as defined in subparagraph (B) (ii) of this paragraph; or (iii) the durable medical equipment acquisition fee, as defined in subparagraph (B) (iii) of this paragraph; or (iv) if no discount is provided, the actual cost to the dealer plus twenty-five percent.

OBJECTIVE, SCOPE AND METHODOLOGY

Our audit was conducted in accordance with generally accepted government auditing standards. The objective of our review was to determine if the Texas Medicaid program reimbursed providers in excess of State Medicare limits for DME and supplies used to provide oxygen. Our audit covered payments for DME and supply claims with dates of service during our 3-year audit period of January 1, 1998 through December 31, 2000 and included 156,036 paid claims totaling \$17,620,176. The review of payments did not include claims for January 1998, because the database system only stores a rolling four-year cycle.

As part of our review, we obtained an understanding of the internal control structure relative to the payment of claims for items of DME and supplies. However, the objective of the audit did not require an assessment of these internal controls.

To accomplish our objective, we:

- Identified the codes used to claim reimbursement for oxygen related DME and supplies provided to Texas Medicaid recipients,
- Obtained the Texas Medicare and Medicaid payment limits for oxygen related DME and supplies,
- Obtained Medicaid claims data for all HCPCS numbers identified as oxygen related DME and supplies under the Medicare fee schedule, and

- Calculated the potential findings associated with limiting the Medicaid payment amount to the applicable Medicare payment limit.

We performed our audit work at the Texas Health and Human Services Commission offices in Austin, Texas, and at our Columbus, Ohio office during February through May 2002.

FINDINGS AND RECOMMENDATIONS

The Medicaid program was overcharged \$3,181,518 (Federal share \$1,969,704) during the 3-year audit period when oxygen related DME and supplies were reimbursed at levels in excess of Medicare payment limits.

Changes to the Medicare fee schedules under the Balanced Budget Act of 1997 substantially reduced the payment levels for numerous Medicare items. The Act stated that for 1998, the national payment limit for oxygen and oxygen equipment is the 1997 limit reduced by 25 percent. The payment limit for 1999 and each subsequent year is the 1997 limit reduced by 30 percent. The State did not implement corresponding reductions to the Medicaid fee screens established for oxygen related equipment and supplies.

The State Medicaid Supply List contained payment data on all 18 HCPCS numbers classified by CMS as oxygen related equipment and supplies under the Medicare fee schedule. We determined that Medicaid reimbursements for 16 of the 18 oxygen related HCPCS numbers exceeded the associated amounts allowable under the Medicare payment limits. The following schedule provides yearly detail by HCPCS numbers of the Medicare fee schedule amount, the number of payments exceeding Medicare amount, and the associated Medicaid payments over the Medicare fee schedule amounts.

Year	HCPCS	Description	Medicare Fee Schedule Amounts	Payment Exceeds Medicare Fee Number of Units	Payments in Excess of Fee Schedule Amount
1998	A4619	Face Tent	\$ 1.32	11	\$ 41
1999	A4619	Face Tent	1.21	1	2
2000	A4619	Face Tent	1.21	1	4
1998	A4621	Tracheotomy mask or collar	1.48	4,236	463
1999	A4621	Tracheotomy mask or collar	1.39	7,331	1,462
2000	A4621	Tracheotomy mask or collar	1.39	9,088	1,877
1998	E0424	Stationary compressed gas O2	245.16	617	32,288
1999	E0424	Stationary compressed gas O2	228.80	757	51,897
2000	E0424	Stationary compressed gas O2	228.80	729	50,083
1998	E0431	Portable gaseous O2	38.53	10,040	148,701
1999	E0431	Portable gaseous O2	35.97	21,263	367,628
2000	E0431	Portable gaseous O2	35.97	26,778	462,249
1998	E0434	Portable liquid O2	38.53	714	10,286
1999	E0434	Portable liquid O2	35.97	1,152	19,385
2000	E0434	Portable liquid O2	35.97	1,392	23,525
1998	E0439	Stationary liquid O2	245.16	808	43,598
1999	E0439	Stationary liquid O2	228.80	1,324	92,873
2000	E0439	Stationary liquid O2	228.80	1,559	109,394

1998	E0442	Oxygen contents liq per/unit	170.66	2	51
1998	E0443	Port O2 contents gas/unit	19.52	118	1,313
1999	E0443	Port O2 contents gas/unit	18.20	84	1,056
2000	E0443	Port O2 contents gas/unit	18.20	23	319
1998	E0444	Port O2 contents liq/unit	19.52	2	16
2000	E0444	Port O2 contents liq/unit	18.20	3	28
1998	E1400	Oxygen concentrator < 2 lite	245.16	882	43,467
1999	E1400	Oxygen concentrator < 2 lite	228.80	2,598	174,126
2000	E1400	Oxygen concentrator < 2 lite	228.80	685	45,685
1998	E1401	Oxygen concentrator 2-3 lite	245.16	2,683	139,170
1999	E1401	Oxygen concentrator 2-3 lite	228.80	5,920	391,503
2000	E1401	Oxygen concentrator 2-3 lite	228.80	1,675	113,928
1998	E1402	Oxygen concentrator 3-4 lite	245.16	1,246	66,936
1999	E1402	Oxygen concentrator 3-4 lite	228.80	2,312	161,877
2000	E1402	Oxygen concentrator 3-4 lite	228.80	526	36,188
1998	E1403	Oxygen concentrator 4-5 lite	245.16	2,066	107,839
1999	E1403	Oxygen concentrator 4-5 lite	228.80	4,648	318,840
2000	E1403	Oxygen concentrator 4-5 lite	228.80	1,173	79,399
1998	E1404	Oxygen concentrator > 5 lite	245.16	395	19,280
1999	E1404	Oxygen concentrator > 5 lite	228.80	731	48,204
2000	E1404	Oxygen concentrator > 5 lite	228.80	165	11,337
1998	E1405	O2/water vapor enrich w/heat	278.61	5	185
1999	E1405	O2/water vapor enrich w/heat	262.25	1	100
1998	E1406	O2/water vapor enrich w/o he	263.98	28	2,088
1999	E1406	O2/water vapor enrich w/o he	247.62	15	1,265
2000	E1406	O2/water vapor enrich w/o he	247.62	17	1,564
	Total:			115,804	\$ 3,181,518

The Medicaid payments in excess of the Medicare fee schedule amount should be refunded.

RECOMMENDATION

We recommend that the State of Texas Health and Human Services Commission:

- Refund \$3,181,518 (Federal share \$1,969,704) to the Medicaid program for excessive reimbursements to providers for oxygen related DME and supplies.
- Revise the Medicaid payment limits for oxygen related DME and supplies to ensure that amounts do not exceed the associated limits under the Medicare fee schedule.

State Agency Comments

A State agency official stated that Texas Medicaid Program is revising the Medicaid payment limits for oxygen related DME and supplies to ensure that amounts do not exceed the associated limits under the Medicare fee schedule.

If you have any additional comments or concerns, please address them to the IHS Action Official shown on the Report Distribution List. To facilitate identification, please refer to Common Identification Number A-05-02-00048 in all correspondence related to this report.

A handwritten signature in black ink that reads "Paul Swanson". The signature is written in a cursive, flowing style.

Paul Swanson
Regional Inspector General
for Audit Services

APPENDIX



TEXAS HEALTH AND HUMAN SERVICES COMMISSION

Don A. Gilbert, M.B.A.
COMMISSIONER

July 22, 2002

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

RE: Common Identification Number A-05-02-00048


Dear Mr. Swanson:

Thank you for the copy of the draft report entitled "Audit of Medicaid Payments for Oxygen Related Durable Medical Equipment and Supplies for the period January 1, 1998 through December 21, 2000. Your report found the Texas Medicaid Program was overcharged approximately \$3,181,518 total dollars during the three-year audit period when oxygen-related equipment and supplies were reimbursed at levels in excess of Medicare payment limits. The maximum allowable fee schedule for oxygen-related equipment and supplies in Texas is based on the lesser of several amounts including the Medicare fee schedule.

The Texas Medicaid Program is revising the Medicaid payment limits for oxygen-related DME and supplies to ensure that amounts do not exceed the associated limits under the Medicare fee schedule. We are also willing to begin negotiations on federal funds to be refunded as a result of this audit. Please contact Linda Wertz, Deputy Commissioner for Medicaid and CHIP, at 512-424-6517 to schedule a conference call or meeting.

Thank you for the opportunity to comment on this draft audit.

Sincerely,

for 
Don A. Gilbert

DAG:kg

c: Linda K. Wertz