

**Memorandum**

Date OCT 27 1993

From Bryan B. Mitchell *Bryan Mitchell*  
Principal Deputy Inspector General

Subject Medicaid Costs Claimed by the Minnesota Department of Human Services for Intermediate Care Facilities for the Mentally Retarded (A-05-92-00062)

To Bruce C. Vladeck  
Administrator  
Health Care Financing Administration

This memorandum is to alert you to the issuance on October 29, 1993, of our final report. A copy is attached.

The objectives of our review were to: (1) quantify Medicaid overpayments which were identified in the provider audits of intermediate care facilities for the mentally retarded (ICFs/MR) conducted by the Minnesota Department of Human Services (MDHS) and (2) determine if these overpayments were recovered and refunded to the Federal Government in accordance with applicable Federal regulations.

We found that MDHS unnecessarily delayed refunding \$2,914,606 (Federal share) of Medicaid overpayments made to 75 ICFs/MR providers between October 1, 1985 and August 31, 1991. As of July 1993, MDHS had not refunded the overpayments to the Federal Government.

In accordance with the Minnesota State Plan, MDHS reimburses ICFs/MR for Medicaid services on a per diem basis. The per diem rates are established using specific cost elements of the individual providers. Federal regulations require State agencies, such as MDHS, to conduct periodic audits of ICFs/MR records. The Medicaid overpayments of \$2,914,606 (Federal share) are related to MDHS audit findings which adjusted the cost elements in the per diem rates used to reimburse providers for Medicaid ICFs/MR services. The audit adjustments which were applied retroactively, effectively decreased the respective provider's per diem rates.

Federal regulations require that whenever an audit discloses that a provider received a Medicaid overpayment, the State agency must specify to the provider in writing the dollar amount subject to recovery in order to collect the overpayment. The written notification establishes the date of discovery of the

overpayment. Under the regulations, the State agency has the option of either: (a) refunding the Federal share of the overpayment within 60 days, or (b) reducing prospective provider payments to offset the overpayment amount. In addition, Federal regulations specify that if a State agency notes that a provider overpayment exists but fails to officially specify to the provider the recoverable amount, and a subsequent Federal review specifies the respective Medicaid overpayment amount to the State agency, the Health Care Financing Administration (HCFA) considers the Federal notification to the State agency the date of discovery.

Because their audit reports did not specify an overpayment amount, MDHS believed that the reports did not serve the providers with official notification of an amount subject to recovery. The MDHS policy is to delay the notification until the provider has the opportunity to appeal the audit and the appeal has been resolved. Effectively, this policy allows the providers an interest free loan of Federal funds.

Our review has demonstrated that MDHS had the necessary information available to calculate and specify the amounts that the providers were overpaid when preparing the respective provider audit reports. If the audit reports had specified the overpayment amounts, MDHS would have been required to refund the Federal portions in accordance with regulatory requirements. Consequently, we believe that MDHS has improperly delayed the refunding of the Federal portion of those recoverable amounts.

We are recommending that MDHS make an appropriate adjustment to HCFA for the \$2,914,606 Federal portion of Medicaid overpayments made to ICFs/MR providers between October 1, 1985 and August 31, 1991. We are also recommending that MDHS establish policies to ensure compliance with the Federal regulations regarding the discovery and refunding of the Federal portion of provider overpayments. Specifically, we recommend that MDHS establish policies and procedures to ensure that (i) provider audit reports which identify overpayments specify, to the provider, the dollar amount subject to recovery; and (ii) the Federal portion of the specified overpayment is recovered and refunded to HCFA in accordance with applicable Federal regulations.

In its response to our draft report, MDHS stated that, in accordance with Federal regulations, it presumes that the \$2,914,606 (Federal share) of the overpayments should be refunded within 60 days of the issuance of our final report. Although MDHS stated that the audit appeal process has been improved and audit appeals

Page 3 - Bruce C. Vladeck

will be settled in a more timely manner, MDHS did not comment on our recommendation regarding policy and procedural changes for audit reports and overpayment recoveries and refunds. Regional HCFA officials agreed with our findings and recommendations.

For further information, contact:

Martin D. Stanton  
Regional Inspector General for  
Audit Services, Region V  
(312) 353-7905

Attachment

Department of Health and Human Services

**OFFICE OF  
INSPECTOR GENERAL**

**MEDICAID COSTS CLAIMED BY THE  
MINNESOTA DEPARTMENT OF HUMAN  
SERVICES FOR  
INTERMEDIATE CARE FACILITIES FOR  
THE MENTALLY RETARDED**



OCTOBER 1993 A-05-92-00062



DEPARTMENT OF HEALTH AND HUMAN SERVICES

REGION V  
105 W. ADAMS ST.  
CHICAGO, ILLINOIS 60603-6201

OFFICE OF  
INSPECTOR GENERAL

Common Identification Number A-05-92-00062

Ms. Natalie Hass Steffen, Commissioner  
Minnesota Department of Human Services  
444 Lafayette Road  
St. Paul, Minnesota 55155-3815

Dear Ms. Steffen:

Enclosed are two copies of the Office of Inspector General (OIG) final report entitled, "AUDIT OF MEDICAID COSTS CLAIMED BY THE MINNESOTA DEPARTMENT OF HUMAN SERVICES FOR INTERMEDIATE CARE FACILITIES FOR THE MENTALLY RETARDED" for the period October 1, 1985, through August 31, 1991. A copy of this report will be forwarded to the action official noted below for her review and any action deemed necessary.

Final determinations as to actions taken on all matters reported will be made by the HHS 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 (Public Law 90-23), OIG, OAS reports issued to the Department's grantees and contractors are made available, if requested, to the 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 the Common Identification Number A-05-92-00062 in all correspondence relating to this report.

Sincerely yours,

Martin D. Stanton  
Regional Inspector General  
for Audit Services

Enclosure

Direct reply to:

Dorothy Burk Collins  
Acting Associate Regional Administrator  
Division of Medicaid

## SUMMARY

This report provides you with the results of our audit of certain costs claimed under the Medicaid program by the Minnesota Department of Human Services (MDHS). The costs claimed were for services provided at community-based intermediate care facilities for the mentally retarded (ICFs/MR) providers. Our audit objectives were to: (1) quantify overpayments related to the findings in the ICFs/MR provider audits conducted by MDHS, and (2) determine whether the Federal share of these overpayments was recovered and refunded to the Federal Government in a timely manner.

Our review disclosed that MDHS unnecessarily delayed recovering and refunding the Federal share of Medicaid overpayments identified in ICFs/MR provider audits. We determined that between October 1, 1985 and August 31, 1991 MDHS overpaid providers, collectively, \$5,457,674 for Medicaid ICFs/MR services. As of July 1993, the Federal share of \$2,914,606 had not been refunded to the Federal Government. The overpayments are related to MDHS audit findings which adjusted the cost elements in the per diem rates used to reimburse providers for Medicaid ICFs/MR services. The audit adjustments, which were applied retroactively, effectively decreased the respective provider's per diem rates.

We found that the respective provider audit reports identified cost adjustments but did not specify the overpayment which resulted from these adjustments to the per diem rates. Consequently, MDHS did not consider these reports to be official notification of an overpayment subject to recovery. The MDHS's practice is to calculate a provider's overpayment after the provider has the opportunity to appeal the audit findings and the appeal is resolved, thereby, delaying the official notification of the overpayment and its recovery. We noted that the appeal process can extend over several years.

We are recommending that MDHS: (1) establish policies and procedures requiring that their audit reports specify, to the respective providers, overpayments subject to recovery which resulted from audit findings, and (2) recover the specified overpayments in accordance with applicable Federal regulations. In addition, we are recommending that MDHS refund the \$2,914,606 (Federal share) of Medicaid overpayments made to ICFs/MR providers during the period October 1, 1985 through August 31, 1991.

The \$2,914,606 we are recommending for refund reflects adjustments for fully or partially settled appeals through July 1993. Our draft report identified collective overpayments to providers of \$8,948,740 for Medicaid ICFs/MR services, of which the unrefunded

Federal share amounted to \$4,774,472. The MDHS response to our draft report (See APPENDIX B) generally agreed that recovery of Federal overpayments is due within 60 days of the issuance of our final report. However, MDHS requested that we adjust the collective overpayments identified in the draft report for the fully or partially settled appeals through July 1993.

The MDHS response to our draft does not address our recommendation regarding policy changes for audit reports and overpayment recoveries.

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BASED ON THE FINDINGS IN THE MDHS PROVIDER AUDIT REPORTS

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AUDITEE COMMENTS



## INTRODUCTION

### BACKGROUND

The Medicaid program, established by Title XIX of the Social Security Act (Act), authorizes grants to States for providing medical assistance to eligible low-income and medically needy persons. Each State arranges to furnish the assistance through medical service providers such as physicians, medical laboratories, pharmacies, hospitals, nursing homes, and other institutions such as ICFs/MR. Title XIX of the Act provides that Medicaid payments to individual States be made in accordance with Federal guidelines and a State plan approved by the Health Care Financing Administration (HCFA).

The Medicaid program in Minnesota is administered by MDHS. Per the State plan, MDHS reimburses ICFs/MR for Medicaid services on a per diem basis. The per diem rates are established using specific cost elements of the individual providers. During the period October 1, 1985 through August 31, 1991, MDHS claimed about \$1.4 billion in Medicaid payments for services to persons residing in ICFs/MR. The Federal share of these payments totalled about \$753 million.

Federal regulations require that State agencies, such as MDHS, conduct periodic audits of ICFs/MR records. Whenever an audit discloses that a provider received a Medicaid overpayment, in order to collect the overpayment, the State agency must specify to the provider, in writing, the dollar amount subject to recovery. The written notification establishes the date of discovery of the overpayment. The State agency has 60 days from the date of discovery to refund the Federal share of the overpayment, regardless of whether it has recovered the overpayment from the provider. In addition, the Federal regulations specify that if a State agency notes that a provider overpayment exists but fails to officially specify to the provider the recoverable amount, and a subsequent Federal review specifies the respective Medicaid overpayment amount to the State agency, HCFA considers the Federal notification to the State agency the date of discovery.

### SCOPE OF AUDIT

Our audit was conducted in accordance with generally accepted government auditing standards. The purpose of our audit was to quantify overpayments related to the findings in the ICFs/MR provider audits conducted by MDHS during the 71 month period ended August 31, 1991, and to determine whether the Federal share of these overpayments was refunded in a timely manner.

The MDHS conducted 164 ICFs/MR provider audits during the aforementioned 71 month period. Of the 164 audits, 108 reported outstanding overpayments that were unique to our audit period. We reviewed 95 audit reports which disclosed outstanding provider

overpayments exceeding \$1,000. As of July 1993, 75 audit reports still had outstanding provider overpayments.

Our audit was limited to an evaluation of selected aspects of MDHS's policies and procedures for conducting ICFs/MR provider field audits and recovering and refunding the Federal share of any related overpayments. We did not perform a detailed verification of all records, reports, statistics, or financial data relating to the overall reimbursement of ICFs/MR. Our objective was accomplished by performing the following audit procedures:

- interviewing State agency officials responsible for conducting ICFs/MR provider audits and resolving provider appeals;
- examining cost reports, audit reports, and related statistical information maintained by the State agency;
- reviewing applicable Federal and State laws, rules, regulations, State plan provisions, and policies and procedures pertaining to the reimbursement of ICFs/MR services;
- interviewing various State and HCFA financial management officials to ascertain the extent of prior audit coverage of cost reimbursements made to ICFs/MR; and
- performing such other auditing procedures as were considered necessary in the circumstances.

Due to the limited scope of the audit, we did not evaluate MDHS's overall internal accounting and administrative controls. However, we considered the results of the annual single audits of MDHS in determining the scope of our review. The single audit reports were issued by the Minnesota Office of the Legislative Auditor and provided audit coverage for all the years included in our audit period. The single audit reports disclosed no internal accounting control findings which affected the results of our audit, and disclosed no instances of noncompliance with Federal law and regulations relating to the administration of Federal financial participation (FFP) amounts for costs incurred by the ICFs/MR. In addition, we examined policies, procedures, and practices established by MDHS to ensure that costs claimed for FFP were in accordance with applicable Federal laws, regulations, and other guidelines.

Other than the issues noted in the RESULTS OF AUDIT section of this report, we found no instances of non-compliance for those items we tested. For the items that we did not test nothing came to our attention to indicate that the State agency was not in compliance with applicable laws and regulations.

Our audit field work was conducted at the State agency in St. Paul, Minnesota between March 1991 and December 1991. In addition, during the months of August and September 1993 we reviewed data at the State

agency relative to provider audit appeals that were resolved subsequent to our fieldwork and through July 1993. The MDHS, in their response to our draft report, asked us to review the settled appeals for purposes of recognizing the amount of Federal overpayments that were resolved through the settlements.

## RESULTS OF AUDIT

### Findings

Our review disclosed that MDHS unnecessarily delayed recovering and refunding the \$2,914,606 Federal share of Medicaid overpayments it made to community-based ICFs/MR providers between October 1, 1985 and August 31, 1991. The overpayments relate to cost adjustments disclosed in MDHS provider audit reports which retroactively changed the per diem rates used to reimburse the respective ICFs/MR providers. Because their audit reports do not specify an overpayment amount relative to the cost adjustments, MDHS believes that the reports do not serve the providers with an official notification of an amount subject to recovery. Under Federal regulations, the official notification is necessary before MDHS is accountable for effectuating recovery from the providers. The MDHS delays the notification until the provider has the opportunity to appeal the audit and the appeal has been resolved. Effectively, this policy allows the provider an interest free loan of Federal funds. We are recommending that MDHS refund the \$2,914,606 of ICFs/MR Medicaid overpayments to HCFA, and establish policies whereby MDHS provider audits serve as official notification of overpayments subject to timely recovery under the appropriate Federal guidelines. Details are presented in the paragraphs that follow.

The ICFs/MR providers in Minnesota are reimbursed for Medicaid services through the application of per diem rates established from the providers' allowable costs of providing the services, such as salaries, supplies, equipment, and other patient related costs. The MDHS is responsible for auditing the ICFs/MR providers. Because the MDHS provider audits are performed periodically, rather than annually, providers may receive reimbursement over several years using per diem rates based on unaudited costs. These unaudited costs are subject to subsequent audit adjustments which are applied retroactively.

We reviewed 95 audit reports issued by MDHS on field audits of community-based ICFs/MR covering various periods between October 1, 1985 and August 31, 1991. Each report disclosed either unallowable costs or cost adjustments which resulted in retroactive changes to the respective provider's per diem rates used in the years within our audit period. Although the reports (i) disclosed the unallowable costs and/or cost adjustments, (ii) listed by year the per diem rates that were recalculated per the audit adjustments, and (iii) indicated that the retroactively adjusted per diem rates resulted in overpayments, the reports did not specify, to the respective providers, a related overpayment amount subject to recovery.

In accordance with 42 CFR, part 433, subpart F Section 433.312 (a)(1) and (a)(2) "...the Medicaid agency (MDHS) has 60 days from the date of discovery of an overpayment to a provider...before the Federal share must be refunded to HCFA." The refund must be made "...whether

or not the State has recovered the overpayment from the provider." The date of discovery of an overpayment is defined in section, 433.316 (c)(1) as, "The date on which any Medicaid agency official or other State official first notifies a provider in writing of an overpayment and specifies a dollar amount that is subject to recovery....". Based on this criteria, MDHS believes that their audit reports did not establish, for each respective provider, a date of discovery of an overpayment. Consequently, the reports did not establish MDHS's responsibility for refunding the Federal portion of the respective provider's overpayments.

Unless a provider files a valid appeal, MDHS effectuates recovery of an overpayment, disclosed through an audit, by offsetting within 120 days of the report date, the provider's monthly Medicaid reimbursements. Our review disclosed that as of December 1991, MDHS made no dollar recoveries from the 95 providers nor refunded any amounts to HCFA, relative to the findings in the respective audit reports, because all of the providers filed valid appeals. The MDHS practice is to calculate a provider's specific overpayment amount subject to recovery after the appeal has been resolved. We noted that the appeal process in Minnesota may extend over several years. Subsequent to our field work, and through July 1993, MDHS resolved 20 appeals, leaving 75 provider audit reports requiring full or partial resolution.

We determined that the aggregate overpayment amount related to the 75 audit reports is \$5,457,674, of which \$2,914,606 is the Federal portion (APPENDIX A). We computed the overpayment amounts by applying the difference between the per diem rates billed and the adjusted rates, shown in each of the 75 provider audit reports, to the respective provider's applicable and allowable patient days (obtained from MDHS).

### **Conclusion**

The 42 CFR, part 433, subpart F, section 433.316 (e) states, "If a Federal review at any time indicates that...a State has identified an overpayment but has failed to...send written notice of the overpayment to the provider that specified a dollar amount subject to recovery...HCFA will consider the overpayment as discovered on the date that the Federal official first notifies the State in writing of the overpayment and specifies a dollar amount subject to recovery." Accordingly, we believe that our audit report serves as the date of discovery for \$2,914,606 in Federal overpayments that is subject to recovery.

In our opinion, MDHS unnecessarily delayed refunding the \$2,914,606 Federal share of overpayments made to ICFs/MR providers during the period October 1, 1985 through August 31, 1991. Our review has demonstrated that MDHS had the necessary information available, when preparing the respective provider audit reports, to calculate and specify the dollar amounts that the providers were overpaid.

However, if the audit reports had specified the overpayment amounts, MDHS would have been required to refund the Federal portions within 60 days of the report issuance dates whether or not MDHS had made recovery from the respective providers.

The MDHS practice of postponing the recovery of provider overpayments until the end of the audit appeal process allows the individual providers interest-free loans of Federal funds. We believe that MDHS's practice is contrary to Federal regulations, and its related effects are unjustified considering the current fiscal problems facing the Medicaid program nationwide.

### **Recommendations**

We recommend that MDHS refund to HCFA the \$2,914,606 Federal portion of Medicaid overpayments made to ICFs/MR providers between October 1, 1985 and August 31, 1991. We also recommend that MDHS establish policies to ensure compliance with the Federal regulations regarding the discovery and refunding of the Federal portion of provider overpayments. Specifically, we recommend that MDHS establish policies and procedures to ensure that (i) provider audit reports which identify overpayments specify, to the provider, the dollar amount subject to recovery, and (ii) the Federal portion of the specified overpayment is recovered and refunded to HCFA in accordance with applicable Federal regulations.

### **MDHS Comments**

The MDHS response acknowledges that the overpayment refund determined as a result of our review is due 60 days after the issuance of the final report. The MDHS requested that we adjust the \$4,774,472 Federal share of overpayments recommended for refund in our draft report to account for amounts that were resolved as a result of appeals settlements. The MDHS provided us with a listing of fully settled or partially settled appeals related to the overpayments included in our draft report. The settlements were made subsequent to our fieldwork and through July 1993.

The MDHS response does not address our recommendation that MDHS establish policies requiring that their audit reports specify, to the respective providers, the dollar amounts of overpayments subject to recovery resulting from the effects of the audit findings, and MDHS recover the specified overpayments within the time frame established in the Federal regulations. However, MDHS stated that the Minnesota Legislature enacted legislation, effective July 1, 1993, which improved the appeal process and that MDHS has established a work plan to ensure that appeals are settled on a more timely basis. For the full text of MDHS' comments, see APPENDIX B.

## OIG Response

We performed additional review work relative to the MDHS listing of partially settled or fully settled appeals. We concluded that subsequent to our fieldwork, and through July 1993, MDHS resolved a portion of the Federal overpayments we identified in our draft report. Accordingly, we reduced the amount of Federal overpayments we are recommending for refund to \$2,914,606 and made the appropriate changes to our report and APPENDIX A.

Although MDHS has taken measures to settle appeals on a more timely basis, the measures do not address the issue of refunding overpayments in accordance with Federal regulations.

# APPENDICES



OVERPAYMENTS TO 75 COMMUNITY BASED  
INTERMEDIATE CARE FACILITIES FOR THE MENTALLY RETARDED  
BASED ON THE FINDINGS IN THE MDHS PROVIDER AUDIT REPORTS

PROVIDER NAME	TOTAL	FEDERAL SHARE
CHAMPION CHILDRENS HOME	\$117,663	\$ 62,844
REM BELTRAMI	45,851	24,489
REM BEMIDJI	62,536	33,400
REM BLOOMINGTON	85,950	45,906
REM BUFFALO	55,440	29,610
REM CANBY	77,320	41,296
REM FAIRMONT	89,840	47,984
REM FERNWOOD	40,691	21,733
REM HOFFMAN	45,090	24,083
REM LYNDAL	55,185	29,475
REM MANKATO	134,020	71,580
REM MARSHALL	121,294	64,783
REM MADELIA	83,479	44,586
REM MINNETONKA	52,214	27,887
REM MONTEVIDEO	66,269	35,395
REM OSAKIS	68,614	36,646
REM PARK HEIGHTS	49,745	26,569
REM PILLSBURY	90,611	48,395
REM PLEASANT	49,753	26,573
REM RED WING	72,886	38,928
REM REDWOOD FALLS	313,029	167,189
REM ROCHESTER	105,333	56,258
REM ROSEAU	107,725	57,537
REM SOUTHEAST	65,324	34,890
REM ST. CLOUD	73,777	39,404
REM TYLER	44,724	23,887
REM WAITE PARK	25,684	13,718
REM WILLOW CREEK	100,010	53,416
PINE RIDGE HOMES #1	2,975	1,594
PINE RIDGE HOMES #2	2,117	1,136
PINE RIDGE HOMES #3	5,021	2,690
ANESKARN ERINKAY	68,038	36,340
DUNGARVIN INCORPORATED	57,191	30,546
DUNGARVIN CAMERA	19,446	10,387
DUNGARVIN BALBRIGGEN	25,271	13,497
DUNGARVIN TYROTHY	31,767	16,941
DUNGARVIN MOORES HAVEN	17,584	9,390
DUNGARVIN SHIRE	71,119	38,024
DUNGARVIN WICKLOUGH	\$108,245	\$ 57,814
PROJECT NEW HOPE ALEXANDRIA #1	18,365	9,830
PROJECT NEW HOPE ALEXANDRIA #2	14,598	7,807

OVERPAYMENTS BY PROVIDER

PROVIDER NAME	TOTAL	FEDERAL SHARE
PROJECT NEW HOPE ALEXANDRIA #3	18,289	9,775
PROJECT NEW HOPE ALEXANDRIA #4	17,187	9,186
PROJECT NEW HOPE ALEXANDRIA #5	18,068	9,658
PROJECT NEW HOPE ALEXANDRIA #6	15,076	8,073
PROJECT NEW HOPE ALEXANDRIA #7	18,882	10,084
PROJECT NEW HOPE FERGUS FALLS I	40,370	21,611
PROJECT NEW HOPE FERGUS FALLS III	20,326	10,896
PROJECT NEW HOPE STARBUCK	23,843	12,775
NORTHOME NURSING HOME INC.	97,640	52,039
PORTLAND RESIDENCE	912,573	486,606
ADAMS GROUP HOME	12,144	6,449
BAXTER GROUP HOME	19,082	10,163
CHARIS HOUSE	15,109	8,079
CHRISTUS GROUP HOME LITTLE FALLS	16,974	9,045
CHRISTUS GROUP HOME GRAND RAPIDS	16,242	8,648
GETHSEMANE GROUP HOME	22,361	11,918
INTERNATIONAL FALLS GROUP HOME	21,619	11,505
LAKE PARK WILD RICE RTC-CHILDREN	3,040	1,624
RED WING GROUP HOME	16,185	8,619
ST. LUKES GROUP HOME	20,214	10,748
ST. STEPHENS GROUP HOME	11,117	5,910
VASA LUTHERAN HOME FOR CHILDREN	49,131	26,125
VENTURE GROUP HOMES INC.	29,293	15,614
CROOKSTON GROUP HOME #1	76,954	41,131
CROOKSTON GROUP HOME #2	88,164	47,077
CROOKSTON GROUP HOME #3	74,680	39,960
EAST GRAND FORKS GROUP HOME #1	70,665	37,804
EAST GRAND FORKS GROUP HOME #2	50,303	26,931
FOSSTON GROUP HOME	72,970	38,984
ADA GROUP HOME #1	34,742	18,544
ADA GROUP HOME #2	43,665	23,299
VALLEY HOME #1	253,529	135,763
VALLEY HOME #2	282,207	151,264
SALMI HOMES	<u>233,236</u>	<u>124,242</u>
TOTALS	<u>\$5,457,674</u>	<u>\$2,914,606</u>

APPENDIX B

AUDITEE COMMENTS



*State of Minnesota*  
***Department of Human Services***

Human Services Building  
444 Lafayette Road  
St. Paul, Minnesota 55155

July 20, 1993

Mr. Brent Storhaug  
U.S. Department of Health and Human Services  
Office of Inspector General -Office of Audit Services  
Agribank -FCB, Suite 310  
375 Jackson Street  
St. Paul, Minnesota 55101

Dear Mr. Storhaug:

Re: Draft Audit of Medicaid Costs Claimed by the Minnesota Department of Human Services for Intermediate Care Facilities for the Mentally Retarded for the Period October 1, 1985 through August 31, 1991. Common Identification Number A-05-92-00062.

Thank you for the opportunity to review the draft report. We are submitting the following comments for your consideration in preparation of the final audit report.

Since the time of your review, the Department has resolved a number of appeals and, in many instances, collected the applicable overpayments. I have attached a list of these settlements and collections for your review.

- Attachment 1 contains lists of the appeals which have been fully settled. \$1,454,023 in overpayment appeals has been settled. Of this amount, \$265,613 has been collected from the providers, with the applicable \$141,565 FFP refunded to HCFA through prospective reductions in payment to the applicable provider. Collection of the remaining \$1,188,410 is contingent upon the sale of the providers' assets and payment of their existing liens, as these providers are out of business. In accordance with federal regulations,

the State is not required to refund the federal share of the overpayment(s) (\$633,312 FFP) to the extent the State is unable to recover the overpayment because the provider has been determined bankrupt or out of business in accordance with the provisions of this section. 42 CFR § 433.318.

Mr. Brent Storhaug  
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July 20, 1993

This reduces the requested FFP refund by \$774,877.

- Attachment 2 contains lists of appeals that have been partially settled. In addition to showing the collectible amount and the Federal share, the lists show the gross adjustments on which the collections were based if they were appealed and the amount of adjustments no longer at issue because of settlement activities. Group 1 lists appeals for which collections and Federal payments have been made. The appeals listed in group 2 have not been completed and Federal payments remain to be made.
- Attachment 3 lists the overpayment appeals that have not been settled to date.

Settlement activities will change the base amounts and the applicable federal share calculated by the Office of Inspector General, both for settled adjustments and for the remaining unsettled adjustments. In these cases, where the disallowed amount is redetermined (and in most cases, reduced) through the appeal and settlement process, the Department should receive credit for the Federal share already refunded and the Federal share calculation should be comparably revised. The methodology for these revisions poses a significant problem that needs to be addressed by HCFA.

In accordance with your request that the draft not be considered final because it is subject to further review and revision, in conjunction with 42 CFR § 433.316(e), the Department presumes that any overpayment refund determined as a result of your review is due within 60 days of the issuance of your *final* report.

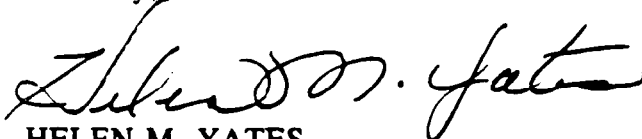
The Minnesota Legislature enacted legislation effective July 1, 1993 to expedite overpayment appeals by authorizing an improved appeals resolution process. In conjunction with this directive, the Department has established a work plan to ensure that appeals are settled on a more timely bases.

There are a number of pragmatic issues that HCFA should address concerning the practical application of 42 CFR, Part 433, Subpart F -Refunding of Federal Share of Medicaid Overpayments by Providers and its impact on the Department's auditing and appeals procedures.

Mr. Brent Storhaug  
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July 20, 1993

We look forward to discussing these concerns at the exit conference scheduled for July 21, 1993. Thank you, again, for the opportunity to review your work papers and to comment on the draft findings. If you require additional information, please contact Jane Wilcox Hardwick, of my staff, at (612) 296-7429.

Sincerely,



HELEN M. YATES  
Assistant Commissioner  
Health Care Administration

cc: Martin D. Stanton, HHS-OIG Office of Audit Services, Region V  
Charles W. Hazlett, HHS-HCFA, Region V

## FULLY SETTLED APPEALS (ELIMINATE PAYBACK)

Provider Name	Total	Federal Share
<u>GROUP 1</u>		
ABC Community Services	\$ 42,965	\$ 22,948
Wilson Apartments	9,082	4,950
Northeast Residence I	71,497	38,110
Northeast Residence II	26,331	14,036
Chez Nous	111,406	59,268
Prairie View	<u>4,332</u>	<u>2,253</u>
	\$ 265,613	\$ 141,565
<u>GROUP 2</u>		
Residential Alternatives I	36,154	19,310
Residential Alternatives II	30,601	16,344
Residential Alternatives III	46,819	25,006
Residential Alternatives IV	28,114	15,016
Residential Alternatives V	26,655	14,237
Residential Alternatives VI	19,960	10,661
Residential Alternatives VII	61,107	32,637
Residential Alternatives VIII	83,451	44,572
Residential Alternatives IX	4,714	2,518
Residential Alternatives X	56,414	30,130
NEB East	402,203	214,166
NEB West	<u>392,218</u>	<u>208,715</u>
	\$ 1,188,410	\$ 633,312
TOTAL	\$ 1,454,023	\$ 774,877

GROUP 1 - These appeals are fully settled and the federal share has been collected.

GROUP 2 - These appeals are fully settled; however, the collection of any overpayment is contingent upon the sale of the providers' assets and the payoff of existing liens. These providers no longer own and operate facilities in Minnesota.

PARTIALLY SETTLED APPEALS

The following appeals have been partially settled. The information below indicates the total payback determined for rates paid between October 1, 1985 and October 30, 1989 (Total) and the federal share of that payback (Fed.Share). The amounts listed in the "Total Adj." column are the gross disallowances which impacted the rate determinations for the above period. The "Settled" column reflects the amount of those total disallowances which have been resolved through agreements.

Group 1 - The Department has collected amounts due under the partial settlements.

Group 2 - The Department has not yet collected amounts due under the partial settlements.

Provider Name	Total	Fed. Share	Total Adj.	Settled
<u>GROUP 1</u>				
Pine Ridge 1	\$ 25,210	\$ 13,509	33,996	25,045
Pine Ridge 2	17,944	9,625	33,665	25,739
Pine Ridge 3	42,550	22,798	67,889	45,052
Adams Group Home	102,916	54,652	186,988	177,310
Baxter G.H.	161,709	86,130	173,071	157,536
Charis House	128,045	68,467	111,329	97,000
Christus L.Falls	143,845	76,654	171,836	156,178
Christus G.Rapids	137,648	73,285	148,884	138,863
Gethsemane G.H.	189,497	100,997	160,513	142,952
Interntl Falls	183,209	97,504	190,329	169,100
Lake Park W.Rice	25,763	13,760	151,024	126,088
Red Wing G.H.	137,165	73,045	143,622	128,429
St. Lukes G.H.	171,304	91,087	186,049	170,328
St. Stephens G.H.	94,215	50,081	260,959	228,714
Vasa Lutheran	416,362	221,400	486,344	457,715
Venture G.H.	<u>248,246</u>	<u>132,318</u>	<u>274,423</u>	<u>207,153</u>
	\$2,225,628	\$1,185,312	\$2,780,921	\$2,453,202

GROUP 2

Dungarvin, Inc.	57,191	30,546	104,439	37,382
Dungarvin Camera	19,446	10,387	45,380	17,203
Dung. Balbriggan	25,271	13,497	41,693	9,650
Dungarvin Shire	71,119	38,024	53,023	21,918
Dungarvin Tyrothy	31,767	16,941	51,341	17,353
Dung. Moores Haven	17,584	9,390	31,668	10,486
Dung. Wicklough	108,245	57,814	262,304	28,360
REM Beltrami	45,851	24,489	40,058	14,260
REM Bemidji	62,536	33,400	35,599	20,925
REM Bloomington	85,950	45,906	58,004	20,280



REM Buffalo	55,440	29,610	52,113	16,116
REM Canby	77,320	41,296	72,898	42,228
REM Fairmont	89,840	47,984	81,424	42,269
REM Fernwood	40,691	21,733	8,881	7,623
REM Hoffman	45,090	24,083	17,318	10,973
REM Lyndale	55,185	29,475	26,946	14,012
REM Mankato	134,020	71,580	68,993	21,337
REM Marshall	121,294	64,783	111,473	62,446
REM Madelia	83,479	44,586	117,083	63,146
REM Minnetonka	52,214	27,887	43,889	21,338
REM Montevideo	66,269	35,395	62,018	20,996
REM Osakis	68,614	36,646	28,122	13,963
REM Park Heights	49,745	26,569	13,575	6,824
REM Pillsbury	90,611	48,395	82,495	47,700
REM Pleasant	49,753	26,573	51,267	20,932
REM Red Wing	72,886	38,928	49,236	16,012
REM Redwood Falls	313,029	167,189	330,963	206,439
REM Rochester	105,333	56,258	90,609	42,208
REM Roseau	107,725	57,537	70,049	45,676
REM Southeast	65,324	34,890	42,809	14,237
REM St. Cloud	73,777	39,404	58,636	20,951
REM Tyler	44,724	23,887	46,687	20,908
REM Waite Park	25,684	13,718	19,154	12,645
REM Willow Creek	<u>100,010</u>	<u>53,416</u>	<u>91,725</u>	<u>42,261</u>
	\$ 2,513,017	\$1,342,216	\$2,361,872	\$1,031,057

TOTALS	\$4,738,645	\$2,527,528	\$5,142,793	\$3,484,259
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OPEN APPEALS

Provider Name	Total	Fed. Share	Status	Report Years
Champion Childrens	\$117,663	\$ 62,844	1	3/31/84
Aneskarn Erinkay	68,038	36,340	2	6/30/85 12/31/85
Aneskarn Inisteige	44,550	23,794	3	6/30/85 12/31/85
Aneskarn Rosslaer	29,489	15,750	3	6/30/85
Project New Hope Alex 1	18,365	9,830	4	12/31/84- 12/31/87
Project New Hope Alex 2	14,598	7,807	4	12/31/84- 12/31/87
Project New Hope Alex 3	18,289	9,775	4	12/31/84- 12/31/87
Project New Hope Alex 4	17,187	9,186	4	12/31/84- 12/31/87
Project New Hope Alex 5	18,068	9,658	4	12/31/84- 12/31/87
Project New Hope Alex 6	15,076	8,073	4	12/31/84- 12/31/87
Project New Hope Alex 7	18,882	10,084	4	12/31/84- 12/31/87
Project New Hope F.F. 1	40,370	21,611	4	12/31/84- 12/31/87
Project New Hope F.F. 3	20,326	10,896	4	12/31/84- 12/31/87
Project New Hope Starbuck	23,843	12,775	4	12/31/84- 12/31/87
Northome Nursing Home	97,640	52,039	1	12/31/85- 12/31/88
Portland Residence	912,573	486,606	1	12/31/85- 12/31/88
Crookston Group Home 1	76,954	41,131	4	12/31/85- 12/31/88
Crookston Group Home 2	88,164	47,077	4	12/31/85- 12/31/88
Crookston Group Home 3	74,680	39,960	4	12/31/85- 12/31/88
East Grand Forks 1	70,665	37,804	4	12/31/85- 12/31/88
East Grand Forks 2	50,303	26,931	4	12/31/85- 12/31/88
Fosston Group Home	72,970	38,984	4	12/31/85- 12/31/88
Ada Group Home 1	34,742	18,544	4	12/31/84- 12/31/88
Ada Group Home 2	43,665	23,299	4	12/31/84- 12/31/88

OPEN APPEALS PAGE 2

Valley Home 1	253,529	135,763	4	12/31/84- 12/31/88
Valley Home 2	282,207	151,264	4	12/31/84 12/31/88
Salmi Homes	<u>233,236</u>	<u>124,242</u>	4	12/31/85- 12/31/88
TOTALS	\$2,756,072	\$1,472,067		

STATUS CODES

- 1 Facilities have been referred to the Attorney Generals Office for hearing. Federal Share for #1's = \$601,489
- 2 Tentative settlement has been negotiated. Federal Share for #2's = \$36,340
- 3 DHS has determined to be uncollectable. Providers were nonprofits which are no longer in business. Federal Share for #3's = \$39,544
- 4 Negotiations in progress. No settlement as yet. Federal Share = \$794,694

REPORT YEARS

The reporting years listed are the field audited years which would affect rates payable from October 1, 1985 through October 31, 1991.



State of Minnesota  
**Department of Human Services**

Human Services Building  
444 Lafayette Road  
St. Paul, Minnesota 55155

APPENDIX B  
Page 9 of 14

August 13, 1993

Mr. Brent Storhaug  
U.S. Department of Health and Human Services  
Office of Inspector General-Office of Audit Services  
Agribank-FCB, Suite 310  
375 Jackson Street  
St. Paul, Minnesota 55101

Re: Common Identification Number A-05-92-0062

Dear Mr. Storhaug:

Here are revised attachments to Helen Yates' letter dated July 20, 1993.

The only change is the transfer of Aneskarn Inisteige and Aneskarn Rosslaer from Attachment 3 (Open Appeals) to Attachment 1, Group 2 (Non-Collectible Appeals). The dollar totals on these pages have been changed accordingly.

Sincerely,

  
Elaine Du Fresne, Director  
Provider Appeals Division

Enclosure

cc: Helen Yates

## FULLY SETTLED APPEALS (ELIMINATE PAYBACK)

Provider Name	Total	Federal Share
<u>GROUP 1</u>		
ABC Community Services	\$ 42,965	\$ 22,948
Wilson Apartments	9,082	4,950
Northeast Residence I	71,497	38,110
Northeast Residence II	26,331	14,036
Chez Nous	111,406	59,268
Prairie View	<u>4,332</u>	<u>2,253</u>
	\$ 265,613	\$ 141,565
<u>GROUP 2</u>		
Residential Alternatives I	36,154	19,310
Residential Alternatives II	30,601	16,344
Residential Alternatives III	46,819	25,006
Residential Alternatives IV	28,114	15,016
Residential Alternatives V	26,655	14,237
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Residential Alternatives X	56,414	30,130
NEB East	402,203	214,166
NEB West	392,218	208,715
Aneskarn Inisteige	44,550	23,794
Aneskarn Rosslaer	<u>29,489</u>	<u>15,750</u>
	\$ 1,262,449	\$ 672,856
TOTAL	\$ 1,528,062	\$ 814,421

GROUP 1 - These appeals are fully settled and the federal share has been collected.

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TOTALS	\$4,738,645	\$2,527,528	\$5,142,793	\$3,484,259
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TOTALS	\$2,682,033	\$1,432,523	

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