




JAN - 6 2003

TO: Neil Donovan
Director, Audit Liaison Staff
Centers for Medicare & Medicaid Services

FROM: Dennis J. Duquette 
Deputy Inspector General
for Audit Services

SUBJECT: Review of Medicaid Claims for 21 to 64 Year Old Residents of Private Psychiatric Hospitals in Texas that are Institutions for Mental Diseases (A-06-02-00026)

As part of the Office of Inspector General's self-initiated audit work, we are alerting you to the issuance of the subject final audit report within 5 business days. A copy of the report is attached. This report is one of a series of reports involving our multi-state review of federal reimbursement for medical services provided to residents of institutions for mental diseases (IMD). We suggest you share this report with components of the Centers for Medicare & Medicaid Services involved with program integrity, provider issues, and state Medicaid agency oversight, particularly the Center for Medicaid and State Operations.

The objective of our review was to determine if controls were in place to effectively preclude the Texas Department of Health (TDH) from claiming federal financial participation (FFP) under the Medicaid program for all medical services made on behalf of 21 to 64 year old residents of private psychiatric hospitals that are IMDs. Examples of the types of claims included in this review were hospital, physician, pharmacy, transportation, and laboratory services.

Our review found that for the period September 1, 1997 through August 31, 2000, TDH improperly claimed FFP for medical and ancillary services for IMD clients between the ages of 22 to 64, and for those aged 21 at admission. As a result, FFP totaling \$555,341 was improperly claimed for IMD residents at the 27 private psychiatric hospitals included in our audit. While state officials stated that it would recover payments for the claims that were improperly paid, our review focused on the improper claiming of FFP by the state Medicaid agency, not on inappropriate payments received by providers. Therefore, the improperly claimed FFP associated with this audit, as well as any identified subsequently, should be refunded to the Federal Government irrespective of whether or not payments are recouped from providers.

Any questions or comments on any aspect of this memorandum are welcome. Please address them to George M. Reeb, Assistant Inspector General, Centers for Medicare and Medicaid Audits, at (410) 786-7104 or Gordon L. Sato, Regional Inspector General for Audit Services, Region VI, at (214) 767-8414.

Attachment



Office of Audit Services
1100 Commerce, Room 6B6
Dallas, TX 75242

Report Number: A-06-02-00026

JAN -9 2003

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 Department of Health and Human Services (HHS), Office of Inspector General (OIG), Office of Audit Services' (OAS) final report entitled, "Review of Medicaid Claims for 21 to 64 Year Old Residents of Private Psychiatric Hospitals in Texas that are Institutions for Mental Diseases." A copy of this report will be forwarded to the HHS action official noted below for review and any action deemed necessary.

Final determination as to actions taken on all matters reported will be made by the HHS action official. 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 are made available to members of the public to the extent information contained therein is not subject to exemptions in the Act. (See 45 CFR part 5). As such, within 10 business days after the final report is issued, it will be posted on the world wide web at <http://oig.hhs.gov>.

To facilitate identification, please refer to report number A-06-02-00026 in all correspondence relating to this report.

Sincerely yours,

Gordon L. Sato
Regional Inspector General for
Audit Services

Enclosure - as stated

Page 2 - Mr. Don A. Gilbert

Direct Reply to HHS Action Official:

James R. Farris, MD.
Regional Administrator
Centers for Medicare & Medicaid Services
Department of Health and Human Services
1301 Young Street, Room 714
Dallas, Texas 75202

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**REVIEW OF MEDICAID CLAIMS FOR
21 TO 64 YEAR OLD RESIDENTS OF
PRIVATE PSYCHIATRIC HOSPITALS IN
TEXAS THAT ARE INSTITUTIONS FOR
MENTAL DISEASES**



JANET REHNQUIST
Inspector General

JANUARY 2003
A-06-02-00026

EXECUTIVE SUMMARY

OBJECTIVE

The objective of our review was to determine if controls were in place to effectively preclude the Texas Department of Health (TDH) from claiming federal financial participation (FFP) under the Medicaid program for all medical services made on behalf of 21 to 64 year old residents of private psychiatric hospitals that are institutions for mental diseases (IMD). Examples of the types of claims included in this review were inpatient acute care hospital, physician, pharmacy, transportation, and laboratory services.

FINDINGS

The TDH improperly claimed FFP for medical services for 21 to 64 year old residents of private psychiatric hospitals that are IMDs. The TDH officials disclosed that there were neither edits nor mechanisms within National Heritage Insurance Company's (NHIC) Medicaid Management Information System (MMIS) to detect and prevent FFP from being claimed for IMD clients between the ages of 21 to 64. However, as a result of our prior audit, the Texas Health and Human Services Commission (HHSC) is working on ways to prevent improper FFP from being claimed in the future.

For the period September 1, 1997 through August 31, 2000, TDH improperly claimed FFP for medical services for IMD clients between the ages of 22 to 64, and for those aged 21 at admission. As a result, FFP totaling \$555,341 was improperly claimed. **Appendix B** of our report identifies the amount of FFP improperly claimed by type of medical and ancillary service.

RECOMMENDATIONS

We recommended that HHSC ensure that TDH:

1. Refund \$555,341 to the Federal Government for the FFP improperly claimed during the period September 1, 1997 through August 31, 2000.
2. Develop controls or edits within its MMIS to detect and prevent claims for FFP for medical services provided to 21 to 64 year old residents of private psychiatric hospitals that are IMDs.
3. Cease claiming FFP for IMD clients between the ages of 21 to 64 when these clients receive medical services.
4. Identify and return any improper FFP claimed subsequent to August 31, 2000.

AUDITEE'S COMMENTS

In response to our draft report, HHSC stated that it has directed NHIC to initiate a recoupment process for the claims that were inappropriately paid during the period September 1, 1997 through August 31, 2000. In addition, HHSC has directed NHIC to develop a system to routinely audit claims on a quarterly basis to detect and identify those claims that were inappropriately billed for clients between the ages of 22 and 64, and for those aged 21 at admission, who received medical and ancillary services. The full text of HHS's comments is included as **Appendix C**.

OIG'S RESPONSE

While HHSC officials stated that they would recover payments for the claims that were improperly paid for the period September 1, 1997 through August 31, 2000, our review focused on the improper claiming of FFP by the state Medicaid agency, not on inappropriate payments received by providers. Therefore, the improperly claimed FFP associated with this audit, as well as any identified subsequently, should be refunded to the Federal Government irrespective of whether or not payments are recouped from providers.

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INTRODUCTION

BACKGROUND

Federal Law and Regulations

Federal law and regulations prohibit federal financial participation (FFP) for all services provided to residents of institutions for mental diseases (IMD) between the ages of 22 to 64, and those 21 at admission. The basis for the IMD exclusion of FFP was established in the 1950 amendments to the Social Security Act (Act). Those amendments excluded all federal assistance payments for patients of IMDs. The creation of the Medicaid program in 1965 permitted FFP for the first time for residents of IMDs in certain situations. Specifically, FFP was allowed for inpatient care provided to IMD residents age 65 and over. The 1972 amendments to the Act extended FFP for inpatient psychiatric care to individuals under the age of 21. Therefore, since the beginning of the Medicaid program, federal medical assistance has never been available for residents of IMDs between the ages of 22 to 64, and in certain instances those who are age 21, for any type of service.

Section 1905(a) of the Act defines the term “medical assistance.” Section 1905 (a) (14) stated that medical assistance includes inpatient hospital services and nursing facility services for individuals 65 years of age or over in an IMD. Section 1905(a)(16) states that effective January 1, 1973, medical assistance includes inpatient psychiatric hospital services for individuals under the age of 21. Following the enumerated paragraphs of section 1905(a), it states that except as otherwise provided in paragraph (16), medical assistance does not include 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.”

The Act defines 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, including medical attention, nursing care, and related services. Psychiatric hospitals (including private psychiatric hospitals) with more than 16 beds are always IMDs.

The regulations implementing the IMD exclusion in section 1905(a) of the Act are found at 42 CFR 441.13 and 42 CFR 435.1008. These regulations preclude FFP for any services to residents under the age of 65 who are in an IMD, except for inpatient psychiatric services provided to individuals under the age of 21, and in some instances for those who are under the age of 22. This 21 to 64 year old exclusion of FFP was designed to assure that states, rather than the Federal Government, continue to have principal responsibility for funding inpatients in IMDs. Under this broad exclusion, no FFP payments can be made for services provided either inside or outside the facility for IMD patients in this age group.

Centers for Medicare & Medicaid Services Guidance

The Centers for Medicare & Medicaid Services (CMS) has consistently provided guidance to states that FFP is not permitted for IMD residents between the ages of 21 to 64. Specifically, the CMS State Medicaid Manual issued to all states provides the necessary guidance regarding the prohibition of FFP for IMD residents within this age group.

The CMS issued Transmittal Number 65 of the State Medicaid Manual in March 1994 and Transmittal Number 69 of the State Medicaid Manual in May 1996. Section 4390 A.2. of the Manual, entitled “IMD Exclusion,” states that:

“...The IMD exclusion is in §1905(a) of the Act in paragraph (B) following the list of Medicaid services. This paragraph states that FFP is not available for any medical assistance under title XIX for services provided to any individual who is under age 65 and who is a patient in an IMD unless the payment is for inpatient psychiatric services for individuals under age 21. This exclusion was designed to assure that States, rather than the Federal government, continue to have principal responsibility for funding inpatient psychiatric services. Under this broad exclusion, no Medicaid payment can be made for services provided either in or outside the facility for IMD patients in this age group.”

The CMS has also consistently provided guidance to states that FFP is not permitted for IMD residents between the ages of 21 to 64 when these patients are temporarily released to acute care hospitals for medical treatment. Specifically, section 4390.1 of both Transmittal Number 65 and 69, entitled “Periods of Absence From IMDs,” states in part that:

“...If a patient is temporarily transferred from an IMD for the purpose of obtaining medical treatment...the patient is still considered an IMD patient.”

In summary, the Act and implementing regulations and transmittals to the State Medicaid Manual make it clear that FFP is not available for any services provided to residents of IMDs who are between the ages of 22 to 64, and in certain instances for those who are 21 years old.

Texas’ Medicaid Program

Texas began participating in the Medicaid program in September 1967. The Texas Health and Human Services Commission (HHSC) has been the single state agency for Medicaid since January 1993 with the State Medicaid Director administering the program. The Texas Department of Health (TDH) is the Medicaid operating agency that provides assistance with claims processing to certain other operating agencies through a contract with the National Heritage Insurance Company (NHIC). The NHIC is the

Medicaid Management Information System (MMIS) fiscal agent for the Medicaid program and has administered the program since 1977. The TDH is also responsible for regulating the state's private psychiatric hospitals.

OBJECTIVE, SCOPE, AND METHODOLOGY

Objective

The objective of our review was to determine if controls were in place to effectively preclude TDH from claiming FFP under the Medicaid program for all medical services made on behalf of 21 to 64 year old residents of private psychiatric hospitals that are IMDs. Examples of the types of claims included in this review were inpatient acute care hospital, physician, pharmacy, transportation, and laboratory services.

Scope

The audit period was September 1, 1997 through August 31, 2000. The review focused on 27 private psychiatric hospitals that are IMDs. (See **Appendix A** for a list of the hospitals.)

Methodology

In order to accomplish our audit objective, we obtained a listing of 29 private psychiatric hospitals within the state from TDH. We compared this list to one we obtained from CMS. From the CMS list, we identified one additional private psychiatric hospital. Of the 30 private psychiatric hospitals, we determined that 3 did not accept Medicaid. Therefore, for audit purposes, only 27 private psychiatric hospitals were included in our review.

We sent letters to the private psychiatric hospitals requesting a listing of their Medicaid eligible residents between the ages of 21 to 64 years old admitted to the hospitals during our audit period. We created three files from the listings received from the hospitals:

- Residents for which the hospital provided Medicaid numbers;
- Residents for which the hospital provided social security numbers; and
- Residents for which we were unable to determine if the client numbers provided were Medicaid numbers or social security numbers.

We worked with the hospitals to resolve any discrepancies noted in the listings, such as incomplete or missing Medicaid or social security numbers. We removed from our files the names of those individuals for which we were unable to resolve discrepancies.

We provided a copy of our files to NHIC and TDH. For each individual listed in our files, NHIC extracted all Medicaid payments for medical services and TDH extracted all

Medicaid payments for pharmacy and transportation claims made during our 3-year audit period. However, TDH was not able to access and provide payments for transportation services prior to September 1, 1998.

We then used computer programming to match the residents' IMD admission and discharge dates to the Medicaid payments to identify payments for services that were provided during the time the individual was a resident of the IMD, and thus unallowable for FFP. We then calculated the improper FFP that had been claimed for these services during the period September 1, 1997 through August 31, 2000.

During our audit, we also interviewed and obtained information from officials of TDH, NHIC, and the hospitals included in our audit. In addition, we reviewed applicable policies and procedures relevant to our audit.

Our review was performed in accordance with generally accepted government auditing standards. During our audit, we did not review the overall internal control structure of the state, the private psychiatric hospitals, or the Medicaid program. Instead, our internal control review was limited to obtaining an understanding of the state's controls to prevent FFP from being claimed under the Medicaid program for 21 to 64 year old residents of private psychiatric hospitals that are IMDs.

Audit field work was performed at TDH, our Austin field office, and our Dallas regional office during the period November 2001 through September 2002.

FINDINGS AND RECOMMENDATIONS

The TDH improperly claimed FFP under the Medicaid program for all medical services for 21 to 64 year old residents of private psychiatric hospitals that are IMDs. For the period September 1, 1997 through August 31, 2000, TDH improperly claimed \$555,341 of FFP. The claiming of FFP for these clients was contrary to federal laws and regulations and clarifying guidance issued by CMS. (**Appendix B** of our report identifies the amount of FFP improperly claimed by type of medical and ancillary service.)

Federal law and regulations prohibit FFP for all services provided to residents of IMDs between the ages of 22 to 64, and those 21 at admission. The basis for the IMD exclusion of FFP was established in the 1950 amendments to the Act. Those amendments excluded all federal assistance payments for patients of IMDs. The creation of the Medicaid program in 1965 permitted FFP for the first time for residents of IMDs in certain situations. Specifically, FFP was allowed for inpatient care provided to IMD residents age 65 and over. The 1972 amendments to the Act extended FFP for inpatient psychiatric care to individuals under the age of 21. Therefore, since the beginning of the Medicaid program, federal medical assistance has never been available for residents of IMDs between the ages of 22 to 64, and in certain instances those who are age 21, for any type of services

The TDH officials disclosed that there were neither edits nor mechanisms within NHIC's MMIS to detect and prevent FFP from being claimed for Medicaid services provided to IMD residents between the ages of 21 to 64. However, as a result of our prior audit (A-06-01-00054 issued on June 28, 2002), HHSC is working on ways to prevent improper FFP from being claimed in the future.

For the period September 1, 1997 through August 31, 2000, TDH improperly claimed FFP totaling \$555,341 for 21 to 64 year old residents of private psychiatric hospitals that are IMDs.

RECOMMENDATIONS

We recommended that HHSC ensure that TDH:

1. Refund \$555,341 to the Federal Government for the FFP improperly claimed during the period September 1, 1997 through August 31, 2000.
2. Develop controls or edits within its MMIS to detect and prevent claims for FFP for medical services provided to 21 to 64 year old residents of private psychiatric hospitals that are IMDs.
3. Cease claiming FFP for IMD clients between the ages of 21 to 64 when these clients receive medical services.
4. Identify and return any improper FFP claimed subsequent to August 31, 2000.

AUDITEE'S COMMENTS

In response to our draft report, HHSC stated that it has directed NHIC to initiate a recoupment process for the claims that were inappropriately paid during the period September 1, 1997 through August 31, 2000. In addition, HHSC has directed NHIC to develop a system to routinely audit claims on a quarterly basis to detect and identify those claims that were inappropriately billed for clients between the ages of 22 and 64, and for those aged 21 at admission, who received medical and ancillary services. The full text of HHSC's comments is included as **Appendix C**.

OIG'S RESPONSE

While HHSC officials stated that they would recover payments for the claims that were improperly paid for the period September 1, 1997 through August 31, 2000, our review focused on the improper claiming of FFP by the state Medicaid agency, not on inappropriate payments received by providers. Therefore, the improperly claimed FFP associated with this audit, as well as any identified subsequently, should be refunded to the Federal Government irrespective of whether or not payments are recouped from providers.

APPENDICES

**LIST OF THE 27 PRIVATE PSYCHIATRIC
HOSPITALS INCLUDED IN OUR AUDIT**

Private Psychiatric Hospital Name

Cedar Crest Hospital
Cypress Creek Hospital
Desert Springs Medical Center
DePaul Center
Devereux Texas Treatment Network
El Paso Psychiatric Center
Glen Oaks Hospital
Green Oaks Hospital
Harris County Psychiatric Center
Harris Methodist Springwood
Intracare Medical Center Hospital
Intracare North Hospital
Las Palmas Medical Center
Laurel Ridge Hospital
Meadow Pines
Millwood Hospital
Mission Vista Hospital
Padre Behavioral Hospital
Red River Hospital
River Crest Hospital
Seton Shoal Creek
Seay Behavioral Health Center
Southwest Mental Health Center
Sunrise Canyon
The Cedars Hospital
Timberlawn Mental Health System
West Oaks Hospital

Audit Note:

We obtained a list of 30 private psychiatric hospitals within the state from TDH and CMS. We determined, however, that St. David's Pavilion, The Brown Schools Rehabilitation Center, and The Devereux Foundation did not accept Medicaid. Therefore, only the 27 private psychiatric hospitals named above were included in our audit.

Appendix B

**AMOUNT OF FFP IMPROPERLY CLAIMED BY
TYPE OF MEDICAL AND ANCILLARY SERVICE**

| <u>Type of Service</u> | <u>Total Medicaid Claimed</u> | <u>FFP Improperly Claimed</u> |
|------------------------|-------------------------------|-----------------------------------|
| Medical Services | \$765,625 | \$474,958 |
| Managed Care | 61,887 | 38,063 |
| Pharmacy | 67,714 | 41,903 |
| Transportation | <u>675</u> | <u>417</u> |
| Total | <u>\$895,901</u> | <u>\$555,341</u> |



TEXAS HEALTH AND HUMAN SERVICES COMMISSION

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

November 12, 2002

Gordon L. Sato
Regional Inspector General for Audit Services
Department of Health and Human Services
Office of Audit Services
1100 Commerce, Room 6B6
Dallas, Texas 75242

Dear Mr. Sato:

This letter is in response to your letter dated October 21, 2002, regarding a letter and report from the U.S. Department of Health and Human Services, Office of Inspector General. The report from the Office of Inspector General is entitled, "Review of Medicaid Claims for 21 to 64 Year Old Residents of Private Psychiatric Hospitals in Texas that are Institutions for Mental Diseases."

The Health and Human Services Commission (HHSC) has directed the National Heritage Insurance Company (NHIC) to initiate the recoupment process for the claims that were improperly paid for the IMD population during the period September 1, 1997 through August 21, 2000.

HHSC is also directing NHIC to develop a system to routinely audit claims on a quarterly basis to detect and identify those claims that were inappropriately billed for clients who are between the ages of 22 and 64, and for those clients aged 21 at admission, who received medical and ancillary services.

Thank you for your comments. Should you need additional information, please contact Mr. Arnulfo Gómez, Health and Human Services Commission, Medicaid/CHIP Benefits, at 512-338-6511. You may also contact him in writing at the following address:

Health & Human Services Commission, H-311
Benefits, Attention: Arnulfo Gomez
1100 West 49th Street
Austin, Texas 78756

Sincerely,

A handwritten signature in black ink, appearing to read "Don Gilbert".

Don A. Gilbert

DAG:db

c: Arnulfo Gomez