



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of Inspector General

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

March 31, 2004

Report Number: A-06-03-00040

Mr. Albert Hawkins
Commissioner
Texas Health and Human Services Commission
4900 North Lamar Blvd., 4th Floor
Austin, Texas 78751

Dear Mr. Hawkins:

Enclosed are two copies of the Department of Health and Human Services, Office of Inspector General's final report entitled "Review of Medicaid Long-Term Care Payments for Individuals with both Medicare and Medicaid Coverage." 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. 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 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 Report Number A-06-03-00040 in all correspondence relating to this report.

Sincerely,

A handwritten signature in black ink that reads "Gordon L. Sato".

Gordon L. Sato
Regional Inspector General
for Audit Services

Enclosures – as stated

Direct Reply to HHS Action Official:

Dr. James R. Farris, MD
Regional Administrator
Centers for Medicare & Medicaid Services
1301 Young Street, Room 714
Dallas, Texas 75202

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**REVIEW OF MEDICAID LONG-TERM
CARE PAYMENTS FOR INDIVIDUALS
WITH BOTH MEDICARE AND
MEDICAID COVERAGE**



Inspector General

**MARCH 2004
A-06-03-00040**

Office of Inspector General

<http://oig.hhs.gov/>

The mission of the Office of Inspector General (OIG), as mandated by Public Law 95-452, as amended, is to protect the integrity of the Department of Health and Human Services (HHS) programs, as well as the health and welfare of beneficiaries served by those programs. This statutory mission is carried out through a nationwide network of audits, investigations, and inspections conducted by the following operating components:

Office of Audit Services

The OIG's Office of Audit Services (OAS) provides all auditing services for HHS, either by conducting audits with its own audit resources or by overseeing audit work done by others. Audits examine the performance of HHS programs and/or its grantees and contractors in carrying out their respective responsibilities and are intended to provide independent assessments of HHS programs and operations in order to reduce waste, abuse, and mismanagement and to promote economy and efficiency throughout the Department.

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The Office of Counsel to the Inspector General (OCIG) provides general legal services to OIG, rendering advice and opinions on HHS programs and operations and providing all legal support in OIG's internal operations. The OCIG imposes program exclusions and civil monetary penalties on health care providers and litigates those actions within the Department. The OCIG also represents OIG in the global settlement of cases arising under the Civil False Claims Act, develops and monitors corporate integrity agreements, develops model compliance plans, renders advisory opinions on OIG sanctions to the health care community, and issues fraud alerts and other industry guidance.



March 31, 2004

Report Number: A-06-03-00040

Mr. Albert Hawkins
Commissioner
Texas Health and Human Services Commission
4900 North Lamar Blvd., 4th Floor
Austin, Texas 78751

Dear Mr. Hawkins:

This final report provides the results of our review of Medicaid long-term care payments for individuals with both Medicare and Medicaid coverage (dual eligible). The objective of the review was to determine whether the Texas Department of Human Services (Department) inappropriately made Medicaid payments for nursing facility care for dual eligible individuals while the Centers for Medicare & Medicaid Services (CMS) also made Medicare payments for these same individuals for skilled nursing facility (SNF) care.

Based on a statistical sample, we estimated that the Department made incorrect Medicaid payments of at least \$12,879 during the period January 1, 2001 through June 30, 2001 on behalf of dual eligible individuals which included payments for regular nursing and Medicare co-insurance. Medicaid overpayments occurred because nursing facilities failed to send the appropriate Medicare SNF admission and discharge information to the Department.

We are recommending that the Department refund \$7,801, which is the Federal share of our estimate of at least \$12,879 in overpayments; strengthen controls concerning the accuracy of the SNF admission and discharge information; and work with CMS to prevent incorrect payments.

In response to our draft report, Department officials concurred with our findings.

BACKGROUND

A Medicaid payment should not be made for regular nursing facility care for individuals residing in a SNF. Medicaid covers long-term care for individuals residing in nursing homes, including dual eligible individuals. However, Medicaid does not cover SNF services except for the deductibles and coinsurance for dual eligibles for these services after a 20-day stay. According to the *CMS SNF Manual, Section 249*, the Medicaid cost-

sharing for SNF care applies during the 21st through the 100th day the individual is in the facility.

OBJECTIVES AND SCOPE

Our review was conducted in accordance with generally accepted government auditing standards. The objective of the review was to determine whether the Department inappropriately made Medicaid payments for nursing facility care for dual eligible individuals while CMS also made Medicare SNF payments. To accomplish our objective, we electronically matched Medicaid long-term care payments with Medicare SNF care payments for dual eligible individuals with the same days of service for the period of January 1, 2001 through June 30, 2001.

After our initial survey, we focused our review on those Medicaid payments in our match made within the first 20 days of the dual eligible individual's SNF admission date. We identified 4,078 Medicaid payments totaling \$4,245,543 that fell into this category. From these payments, we selected a simple random sample of 100 for review. We used our RAT-STATS variable appraisal program to estimate the amount of Medicaid overpayments and reported our estimate at the lower limit of the 90 percent two-sided confidence interval.

For sampled Medicaid payments, we reviewed:

- supporting documentation to determine whether these payments overlapped with Medicare SNF services, and
- admission and discharge records to determine whether the beneficiary resided in the SNF.

FINDINGS AND RECOMMENDATIONS

Based on a statistical sample, we estimated that the Department made incorrect Medicaid payments of at least \$12,879 during the period January 1, 2001 through June 30, 2001 on behalf of dual eligible individuals. This amount included:

- payments for regular nursing facility care for individuals residing in a SNF that were made while Medicare payments were also made for the same individuals, and
- Medicare coinsurance payments for SNF care that were made before the qualifying 20-day period at the facility.

Of the 100 Medicaid claims reviewed, we identified six payment errors totaling \$1,480 that we used to estimate the overpayment. The type of errors involved:

- Long-term care payments made while the individual was residing in the SNF, as shown in the example below:

Department officials explained that they do not have access to Medicare payments made for SNF care until the Medicaid cost-sharing is effective after the 20th day in the facility. In addition, these officials were concerned with the lack of Medicare information from CMS for the first 20 days.

RECOMMENDATIONS

We recommend that the Department:

- refund \$7,801, which is the Federal share of our estimate of at least \$12,879 in overpayments,
- strengthen controls concerning the accuracy of the SNF admission and discharge information submitted by the nursing home facilities, and
- work with CMS to collaborate Medicaid long-term care and Medicare SNF payments to prevent duplicate payments for the same individuals.

DEPARTMENT'S RESPONSE

The Department agreed with our recommendations. Specifically, the Department:

- will address the resolution of the Federal share of duplicate payments once it receives our final audit report.
- plans to increase management controls over information it receives from nursing home providers regarding SNF admissions and discharges and situations where Medicare has paid a claim and recoupment of Medicaid payment is appropriate.
- is currently involved in a Medicare/Medicaid data matching project with CMS and its contractor to identify duplicate payments between Medicare and Medicaid.

The complete text of the Department's response is presented in the Appendix to this report.

Sincerely,



Gordon L. Sato
Regional Inspector General
for Audit Services



TEXAS HEALTH AND HUMAN SERVICES COMMISSION

ALBERT HAWKINS
EXECUTIVE COMMISSIONER

March 8, 2004

Mr. Gordon L. Sato
Regional Inspector General for Audit Services
Office of the Inspector General
1100 Commerce, Room 632
Dallas, TX 75242

RE: Report Number: A-06-03-00040

Dear Mr. Sato:

Thank you for the opportunity to provide comments on the issues you identified in the draft report detailing the result of the Department of Health and Human Services (HHS) Office of Inspector General audit titled, "Review of Medicaid Long-Term Care Payments for Individuals with Both Medicare and Medicaid Coverage."

We are in agreement with your analysis of Section 249 of the Centers for Medicare and Medicaid Services (CMS) Skilled Nursing Facility (SNF) manual which indicates that while Medicaid does cover long-term care for individuals residing in nursing homes, including dual eligible individuals, it only covers deductibles and coinsurance for dual eligibles during the 21st through the 100th day the individual is in the facility. We are also in agreement that Medicaid payments should not be made for individuals residing in a SNF when Medicare payments were made for the same individual. Our responses to the HHS Office of Inspector General recommendation follow.

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Recommendation:

We recommend that the Department:

- *refund \$7,801, which is the Federal share of our estimate of at least \$12,879 in overpayment;*
- *strengthen controls concerning the accuracy of the SNF admission and discharge information submitted by the nursing home facilities; and*
- *work with CMS to collaborate Medicaid long-term care and Medicare SNF payments to prevent duplicate payments for the same individuals.*

HHSC Management Response:

HHSC will examine claims identified by the auditors, notify providers of any outstanding duplicate claims and corresponding payment amounts, and request providers to reimburse the amount of any duplicate payments from the Medicaid program. HHSC will address the resolution of the Federal share of duplicate payments once it receives the final audit report.

HHSC plans to increase management controls over information it receives from nursing facility providers about SNF admissions and discharges and about situations in which Medicare has paid a claim and recoupment of Medicaid payment is appropriate. Potential improvements will be studied and could include periodically notifying providers through provider letters about their responsibilities for reporting, and an effort by HHSC to improve assurance over the quality of provider reporting by selecting a sample of provider reports and reviewing corresponding support documentation at facilities for accuracy.

Specific control improvements should be determined and an implementation timeline developed by April 1, 2004.

HHSC is currently involved in a Medicare/Medicaid data-matching project with CMS and its contractor, TriCenturion. Long-term care data will become part of that project to identify duplicate payments between Medicare and Medicaid.

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Please let me know if you have any questions or need additional information. I have asked David Griffith, CPA, CIA, HHSC Internal Audit Director, to be the lead staff on this matter. David can be reached at 512/424-6998 or by e-mail at David.Griffith@hhsc.state.tx.us.

Sincerely,

A handwritten signature in cursive script, appearing to read "Albert Hawkins", with a horizontal line extending to the right.

Albert Hawkins

AH:dg