Department of Health and Human Services
Office of Inspector General
Office of Audit Services

February 2025 | A-07-21-05132

# Colorado Made Capitation Payments to Managed Care Organizations After Enrollees' Deaths

# REPORT HIGHLIGHTS

February 2025 | A-07-21-05132

# Colorado Made Capitation Payments to Managed Care Organizations After Enrollees' Deaths

## Why OIG Did This Audit

- Colorado pays Medicaid managed care organizations (MCOs) for health care services provided to Medicaid enrollees; in return, MCOs receive a monthly fixed payment for each enrollee (capitation payment).
- Previous OIG audits found that other States had improperly paid capitation payments on behalf of deceased enrollees.
- This audit of Colorado is one of a series that examines whether States made capitation payments to MCOs on behalf of deceased enrollees.

## What OIG Found

Colorado made unallowable capitation payments to MCOs on behalf of deceased enrollees, whose dates of death preceded the service periods covered by the monthly capitation payments. Specifically:

- Of the 120 capitation payments in our stratified random sample, 109 payments were made on behalf of deceased enrollees whose dates of death preceded the service period covered by the monthly capitation payment.
- We also identified almost 39,000 unallowable capitation payments that Colorado made on behalf of deceased enrollees even though their dates of death were accurately recorded in the State's eligibility system.

Accordingly, we estimated that Colorado made at least $3.8 million (Federal share) in unallowable capitation payments to MCOs on behalf of deceased enrollees. In addition, Colorado incorrectly reported other Medicaid expenditures to CMS totaling over $2.2 million (Federal share).

## What OIG Recommends

We make six recommendations to Colorado, including that it refund an estimated $6.0 million to the Federal Government. The full recommendations are in the report.

Colorado agreed with three of our recommendations and partially agreed with one of our monetary recommendations. Colorado disagreed with our remaining two recommendations but described corrective actions that it had taken or planned to take to address all of our recommendations.

**TABLE OF CONTENTS**

# INTRODUCTION

## WHY WE DID THIS AUDIT

The Colorado Department of Health Care Policy and Financing (State agency) pays Medicaid managed care organizations (MCOs) to make services available to Medicaid enrollees in return for a monthly fixed payment for each enrollee (capitation payment). Previous Office of Inspector General (OIG) audits found that State Medicaid agencies had improperly paid capitation payments on behalf of deceased enrollees (Appendix B). We conducted a similar audit of the State agency, which administers the Medicaid program in Colorado.

## OBJECTIVE

Our objective was to determine whether the State agency made capitation payments to MCOs on behalf of deceased enrollees.

## BACKGROUND

### Medicaid Program

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

The Medicaid managed care programs are intended to improve quality of health care for Medicaid enrollees and reduce costs to the Medicaid program. States contract with MCOs to make services available to Medicaid enrollees, usually in return for capitation payments. States report capitation payments claimed by MCOs on the States' Quarterly Medicaid Statement of Expenditures for the Medical Assistance Program (Form CMS-64). The Federal Government pays its share of a State's medical assistance expenditures (Federal share) under Medicaid based on the Federal medical assistance percentage (FMAP), which varies depending on the State's relative per capita income as calculated by a defined formula (42 CFR § 433.10). During our audit period, the FMAP in Colorado ranged from 50 to 88 percent.

### Social Security Administration: Date-of-Death Information

The Social Security Administration (SSA) maintains death record information, including date of death, by obtaining death information from many sources, such as relatives of deceased enrollees, physicians, lawyers, accountants, and other Federal or State agencies. SSA processes death notifications through its Death Information Processing System when it receives reports of

death.[1] SSA records the resulting death information in its Numerical Identification System (the Numident).[2] SSA then uses information from the Numident to create a national record of death information called the Death Master File (DMF).[3]

**Federal and State Requirements**

A capitation payment is "a payment the State [agency] makes periodically to [an MCO] on behalf of each [enrollee] enrolled under a contract . . . for the provision of services under the State plan. The State [agency] makes the payment regardless of whether the particular [enrollee] receives services during the period covered by the payment" (42 CFR § 438.2).

The State agency's contracts with the MCOs specify that the State agency has sole discretion for the recovery of capitation payments for any reason, including overpayments or improper payments. Overpayments may include, but are not limited to, erroneous payments made because of enrollee ineligibility.

**Colorado's Medicaid Program and Managed Care Organizations**

Colorado's Medicaid program, called Health First Colorado, provides public health insurance for eligible individuals. Children, pregnant women, parents, caretakers; and people with developmental, intellectual, or physical disabilities; and certain other categories of adults may be eligible for coverage.

The State agency contracted with 22 MCOs during our audit period to provide benefits through Health First Colorado to individuals enrolled in an MCO (variously referred to as "members" and "participants" in Colorado).[4] Each enrollee must obtain available services through providers enrolled with the MCO to which that enrollee has been assigned. Available services may differ from one MCO to the next; that is, not all of the MCOs in Colorado offer the same services to enrollees.

The State agency's Medicaid program has these general features:

- MCOs provide most of the Health First Colorado benefits to enrolled members.

[1] SSA, *Programs Operations Manual System*, GN 02602.050 (Oct. 30, 2017).

[2] The Numident contains personally identifiable information for each individual who has been issued a Social Security number (SSN).

[3] Data maintained in the DMF include names, SSNs, dates of birth, and dates of death.

[4] For the remainder of this report, we use the term "enrollees" to refer to individuals who are enrolled in one of the MCOs in Colorado.

- Benefits that the MCO does not cover, but that are Health First Colorado covered benefits, may be provided to an enrollee on a fee-for-service basis.

- certain MCO-covered benefits may have coverage limitations, such as an allowed number of services (even though more services may be medically necessary). When such an MCO benefit is exhausted, additional medically necessary services are provided on a fee-for-service basis.

The State agency contracted with a fiscal data vendor to provide data that the State agency used to create the Form CMS-64.

**HOW WE CONDUCTED THIS AUDIT**

We reviewed capitation payments made by the State agency on behalf of enrollees whose dates of death preceded the monthly service periods of January 1, 2018, through December 31, 2020 (audit period). Specifically, our audit covered 234,096 capitation payments totaling $12,966,680 that the State agency made to MCOs and claimed for Federal reimbursement during our audit period. The State agency made these payments on behalf of enrollees whose dates of death, as recorded in one or more of the data sources we consulted, preceded the service periods covered by the monthly capitation payments.[5] We performed the following actions with respect to the 234,096 capitation payments:

- We identified 127,874 capitation payments totaling $7,822,113 ($4,094,535 Federal share) that were made on behalf of enrollees who did not have a date of death recorded in the State agency's eligibility system but who had a date of death recorded in the DMF that preceded the service period covered by the monthly capitation payment.[6]

- We identified 106,222 capitation payments totaling $5,144,567 ($2,591,676 Federal share) that were made on behalf of enrollees whose dates of death recorded in the State agency's eligibility system preceded the service periods covered by the monthly capitation payments.

From the sampling frame of 127,874 capitation payments, we selected a stratified random sample of 120 capitation payments, totaling $57,750 ($29,683 Federal share), for review. We used these sample results to estimate the total amount and the Federal share of the unallowable capitation payments.

[5] We structured our audit period on the basis of calendar years rather than State fiscal years (which run from July 1 of one year to June 30 of the next).

[6] The State agency's eligibility system did have a date of death for some enrollees, but that date of death differed from the date of death in the DMF.

We also initiated reviews of all 106,222 capitation payments totaling $5,144,567 ($2,591,676 Federal share) discussed in our second bullet just above. During our audit, we became aware that the State agency had already started to identify and recover capitation payments for deceased enrollees. The State agency had initiated these actions after our audit period but before the start of our audit. Based on this activity, we reduced the amount that we reviewed to 38,826 capitation payments totaling $582,406 ($293,890 Federal share) that were made on behalf of 3,268 enrollees.[7] We verified the dates of death for the 3,268 enrollees associated with the 38,826 capitation payments and determined the total amount and the Federal share of the unallowable capitation payments.

We thus reviewed a combined total of 38,946 capitation payments totaling $640,156 ($323,573 Federal share).

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

Appendix A contains details of our audit scope and methodology, Appendix C contains our statistical sampling methodology, and Appendix D contains our sample results and estimates.

## FINDINGS

During our audit period, the State agency made unallowable capitation payments to MCOs on behalf of deceased enrollees. The dates of death of these enrollees, as recorded in one or more of the data sources we consulted, preceded the monthly service periods that fell between January 2018 and December 2020 and that were covered by the monthly capitation payments. Specifically, we estimated that the State agency made at least $7,320,166 in unallowable capitation payments to MCOs on behalf of deceased enrollees, for which it claimed at least $3,803,248 in unallowable Federal reimbursement. With respect to these errors, we made the following determinations:

- Of the 120 capitation payments in our stratified random sample, we verified that 109 of the payments, totaling $53,847 ($27,635 Federal share), were made on behalf of deceased enrollees who had a date of death recorded in the DMF that preceded the service period covered by the monthly capitation payment. The capitation payments in our sampling frame generally did not have a date of death recorded in the State agency's eligibility system (footnote 6). On the basis of our sample results, we

[7] This activity also affected some of the capitation payments in our stratified random sample. We therefore reduced the dollar amount of the affected capitation payments in error in our finding (as discussed below) by the amount that the State agency had recovered before the start of our audit.

estimated that the State agency made unallowable capitation payments totaling at least $6,737,760 ($3,509,358 Federal share).

- We also identified 38,826 unallowable capitation payments totaling $582,406 ($293,890 Federal share) that the State agency made on behalf of deceased enrollees who had a date of death recorded in the DMF that preceded the service period covered by the monthly capitation payment. The State agency did not recoup these payments even though the associated enrollees had a date of death accurately recorded in its eligibility system.

The State agency made these unallowable capitation payments on behalf of deceased enrollees because it did not have adequate controls, to include adequate policies and procedures, in place. Among other factors, for a portion of our audit period the State agency did not have an automated system to verify dates of death. Specifically, with respect to the capitation payments in our sampling frame that did not have a date of death recorded in the State agency's eligibility system, the State agency's recoupment process for recovering capitation payments for deceased enrollees did not include enrollees who were no longer eligible when it implemented (in October 2019, during our audit period) an automated system to verify dates of death. With respect to the capitation payments that the State agency made even though the associated enrollees had a date of death accurately recorded in its eligibility system, the State agency told us that it did not start to automatically recover capitation payments made after the enrollees' dates of death until the middle of 2020.

In addition, the State agency overreported other Medicaid expenditures to CMS during the audit period. The State agency reported these expenditures on the same lines of the Forms CMS-64 as the capitation payments that we reviewed. As part of our audit procedures (Appendix A), we asked the State agency to reconcile the capitation payments made to the MCOs (for which it had claimed Federal reimbursement) to the total Medicaid expenditures reported to CMS during our audit period. During this reconciliation process, the State agency determined that it had previously overreported other Medicaid expenditures totaling $3,940,415 ($2,208,950 Federal share) to CMS. These errors occurred because the State agency's policies and procedures, to include its routine reconciliation procedures, were not adequate to ensure that all of the information provided by the State agency's fiscal data vendor was accurately reported on the Form CMS-64.

## THE STATE AGENCY MADE UNALLOWABLE CAPITATION PAYMENTS TO MEDICAID MANAGED CARE ORGANIZATIONS

Under the provisions of 42 CFR § 438.3(c)(2), capitation payments may only be made by the State agency and retained by the MCO for Medicaid-eligible enrollees. CMS clarified in the Medicaid managed care final rule that enrollees are no longer Medicaid-eligible after death, so capitation payments should not be retained for deceased enrollees (81 Fed. Reg. 27498, 27537 (May 6, 2016)).

The State agency's contracts with the MCOs (called "Contractor" here) state (§ 7.2.6):

> In the event that the Department [i.e., the State agency] pays any amount to the Contractor in error, the Contractor shall refund those overpayments to the Department within thirty (30) days of the discovery of the overpayment. Overpayments may include, but are not limited to, erroneous payments made because of human errors, machine errors, lack of Participant [i.e., enrollee] eligibility, a Participant moving outside of the Contractor's service area defined in the Program Agreement, or any other erroneous payment made to the Contractor by the Department. This subsection shall not limit any other remedies the Department has under this Contract, and this requirement shall survive the termination of this Contract.

During our audit period, the State agency made unallowable capitation payments to MCOs on behalf of deceased enrollees. For this audit, we reviewed a combined total of 38,946 capitation payments totaling $640,156 ($323,573 Federal share) and determined that 38,935 of the capitation payments were unallowable. We estimated that the State agency made at least $7,320,166 in unallowable capitation payments to MCOs on behalf of deceased enrollees, for which it claimed at least $3,803,248 in unallowable Federal reimbursement.

**The State Agency Made Unallowable Payments on Behalf of Enrollees Whose Dates of Death Were Not Available in the State Agency's Eligibility System but Were Available in the Social Security Administration's Death Master File**

We verified that 109 of the 120 capitation payments in our stratified random sample, totaling $53,847 ($27,635 Federal share), were unallowable. The State agency made these payments on behalf of deceased enrollees who had a date of death recorded in the DMF that preceded the service period covered by the monthly capitation payment.

We used date-of-death information from: Accurint; the State of Colorado's Department of Public Health and Environment (CDPHE), Center for Health and Environmental Data Vital Statistics Program; and the U.S. Department of the Treasury's Do Not Pay database to confirm that the dates of death in the DMF were correct for these 109 sampled capitation payments. We then provided our findings on these sampled payments to the State agency—findings that, in our view, confirmed the enrollees' dates of death. The State agency responded that for 26 of the 109 sampled capitation payments we identified, the associated enrollees were, according to the State agency's eligibility system, still eligible for Medicaid coverage. The State agency was not, however, able to give us any other information to support that these enrollees were alive at the times that the State agency made the capitation payments in question. We reviewed this information and concluded that an enrollee's current eligibility in the State agency's eligibility system was not—in the absence of other corroborating data—sufficient to support that the enrollees were not deceased when the relevant capitation payments were made. On the basis of our sample results, we estimated that the State agency made unallowable capitation payments totaling at least $6,737,760 ($3,509,358 Federal share).

**The State Agency Made Unallowable Payments on Behalf of Enrollees Whose Dates of Death Were Available in the State Agency's Eligibility System**

We identified 38,826 unallowable capitation payments totaling $582,406 ($293,890 Federal share) that the State agency made on behalf of 3,268 deceased enrollees who had a date of death recorded in the DMF that preceded the service period covered by the monthly capitation payment. In each of these cases, the enrollee had a date of death recorded in the State agency's eligibility system that was within the same month and year as the corresponding information in the DMF.

We provided our findings on the 38,826 capitation payments to the State agency. The State agency reviewed our results and agreed that the 38,826 capitation payments had been made on behalf of enrollees whose dates of death preceded the service periods covered by these monthly capitation payments. As a result of these errors, the State agency made unallowable capitation payments to MCOs totaling $582,406 ($293,890 Federal share).

**The State Agency Did Not Have Adequate Controls To Include Adequate Policies and Procedures**

Contractual agreements between the State agency and the MCOs provide for the recovery of capitation payments made after the enrollees' deaths. However, it is the State agency's responsibility to ensure that the capitation payments for deceased enrollees are not made, and that any capitation payments made for a deceased enrollee are recovered from the MCO.

The State agency made these unallowable capitation payments on behalf of deceased enrollees because it did not have adequate controls, to include adequate policies and procedures, in place. Specifically, the State agency's policies and procedures did not direct or facilitate the State agency's use of all available sources of data to identify potentially deceased enrollees and then confirm (and discontinue as necessary) their eligibility. At the start of our audit period, the State agency's process for updating enrollees' dates of death in its eligibility system required several manual steps and was thus vulnerable to data entry errors.

In October 2019 (during our audit period), the State agency implemented an automated system to verify dates of death, but it did not begin using that system to recover capitation payments that had been made after enrollees' dates of death until the middle of 2020. Additionally, the State agency executed a one-time review and recoupment process in 2021. However, this review process did not include enrollees who had lost their Medicaid eligibility at some point before the State agency initiated this process. For example, in January 2019, the State agency disenrolled one enrollee in our sample from Medicaid because that individual did not provide verification of Medicaid eligibility. The CDPHE's Center for Health and Environmental Data Vital Statistics Program and other sources verified to us that this enrollee had died in November 2017, but the State agency made capitation payments for this individual until January 2019, when the individual was disenrolled. Because this enrollee had already been disenrolled when the State agency executed the 2021 one-time review and recoupment process, the State

agency did not recover capitation payments that had been made after the enrollee's death but before disenrollment.

We also noted that the State agency relied on data feeds from SSA to notify it of any Medicaid eligibility changes for enrollees who were eligible for Supplemental Security Income In this respect, the State agency's controls were inadequate because the State agency did not have a policy or automated procedure to periodically verify that data in the State agency's eligibility system matched data in SSA's system for enrollees who were eligible for Supplemental Security Income. An automated process of this nature would have helped ensure that the eligibility system did not miss any updates and that it matched SSA data.

## THE STATE AGENCY OVERREPORTED MEDICAID EXPENDITURES TO CMS DURING THE AUDIT PERIOD

### The State Agency Determined That It Had Previously Overreported Medicaid Expenditures

Section 1902(a)(6) of the Act states that a State plan for medical assistance must "provide that the State agency will make such reports, in such form and containing such information, as the Secretary [of Health and Human Services] may from time to time require, and comply with such provisions as the Secretary may from time to time find necessary to assure the correctness and verification of such reports." CMS requires States to report Medicaid expenditures each quarter on the Form CMS-64, which is "the State's accounting of actual recorded expenditures" and which "may not be reported on the basis of estimates" (42 CFR § 430.30(c)).

In addition to the unallowable capitation payments made on behalf of deceased enrollees, the State agency overreported other Medicaid expenditures to CMS during the audit period. During our audit, the State agency told us that it also reported other Medicaid expenditures (which were outside of our audit scope) on the same lines of the Forms CMS-64 as the capitation payments that we reviewed. These expenditures included those that were reported by the State agency's fiscal data vendor.

As part of our audit procedures (Appendix A), we asked the State agency to reconcile the capitation payments made to the MCOs (for which it had claimed Federal reimbursement, and which included the other Medicaid expenditures that the State agency's fiscal data vendor had reported), to the amounts reported on the Forms CMS-64. During this reconciliation process, the State agency determined that it had overreported some of these other Medicaid expenditures by $3,822,095 ($2,148,018 Federal share) because it had used duplicate data created by the State agency's fiscal data vendor. Additionally, the State agency overreported other Medicaid expenditures by $118,320 ($60,932 Federal share) because of a data entry error. As a result, the State agency overreported a total of $3,940,415 ($2,208,950 Federal share) in Medicaid expenditures to CMS that the State agency had not actually incurred and to which it was therefore not entitled.

**The State Agency's Policies and Procedures Were Not Adequate**

These errors occurred because the State agency's policies and procedures were not adequate to ensure that all of the information provided by the State agency's fiscal data vendor was accurately reported on the Form CMS-64. Therefore, these policies and procedures did not enable the State agency either to identify errors in any information provided by its fiscal data vendor or to ensure that the State agency identified and corrected data entry errors before submission of the Forms CMS-64. Specifically, the State agency's fiscal data vendor provided reports that included inaccurate data, which the State agency's routine reconciliation procedures did not identify and which resulted in the overreporting of $2,208,950 (Federal share) of Medicaid expenditures.

## RECOMMENDATIONS

We recommend that the Colorado Department of Health Care Policy and Financing:

- refund $6,012,198 to the Federal Government, consisting of:
    - $3,509,358 (Federal share) of capitation payments made on behalf of deceased enrollees who had a date of death recorded in SSA's DMF but not in the State agency's eligibility system,
    - $293,890 (Federal share) of capitation payments made on behalf of deceased enrollees who had a date of death recorded in SSA's DMF and in the State agency's eligibility system, and
    - $2,208,950 (Federal share) in other Medicaid expenditures that the State agency had previously overreported;
- identify and recover unallowable capitation payments made to MCOs during our audit period on behalf of deceased enrollees who did not have a date of death recorded in the State agency's eligibility system but who did have a date of death recorded in the DMF, which we estimate to be at least $6,737,760;
- recover unallowable capitation payments totaling $582,406 that were made to MCOs during our audit period on behalf of deceased enrollees who did have a date of death recorded in the State agency's eligibility system;
- identify and recover unallowable capitation payments made on behalf of deceased enrollees after our audit period and repay the Federal share of any amounts recovered;
- strengthen internal controls, to include strengthening policies and procedures on identifying and verifying date-of-death information, so that the State agency's eligibility system is updated based on information provided by data sources, and that capitation

payments that have been made on behalf of verified deceased enrollees are recovered; and

- strengthen policies and procedures for the accurate reporting of all Medicaid expenditures to CMS, to include strengthening the State agency's procedures for the routine reconciliation of information provided by the State agency's fiscal data vendor, so that only actually incurred Medicaid expenditures are reported on the Forms CMS-64 to CMS.

## STATE AGENCY COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE

In written comments on our draft report, the State agency disagreed with the first two parts of our first recommendation and with our second and third recommendations. The State agency agreed with the third part of our first recommendation and with our fourth, fifth, and sixth recommendations. For all recommendations, the State agency described corrective actions it said it had taken or planned to take, including "substantial system enhancements and process updates."

The State agency disagreed with the first part of the first recommendation and our second recommendation because, it said, our audit work was "inadequate" and we used "data analysis rather than proving true verification of our findings." The State agency disagreed with the second part of our first recommendation and our third recommendation because, it said, it is unable to recover funds from MCOs that are no longer in business; the State agency added that its contracts with certain MCOs prohibit recovery of capitation payments.

After reviewing the State agency's comments, we maintain that all of our findings and recommendations remain valid. We do not believe that our audit work was "inadequate" and we maintain that our audit methodology provides a reasonable basis for our findings and conclusions based on our audit objective. For MCOs that are no longer in business, the State agency can work with CMS during the audit resolution process to determine whether overpayment amounts are uncollectable. We also continue to believe that the State agency's contracts with the MCOs follow Federal requirements by including provisions for the recoupment of capitation payments. The State agency did not provide us with any information that would cause us to revise our findings or the associated monetary recommendations.

A summary of the State agency's comments and our responses follows. We have organized the following sections according to both our findings (which are associated with our monetary recommendations) and our procedural recommendations. The State agency's comments appear in their entirety as Appendix E.

## PAYMENTS MADE ON BEHALF OF ENROLLEES WHOSE DATES OF DEATH WERE NOT AVAILABLE IN THE STATE AGENCY'S ELIGIBILITY SYSTEM BUT WERE AVAILABLE IN THE SOCIAL SECURITY ADMINISTRATION'S DEATH MASTER FILE

### State Agency Comments

The State agency disagreed with the first part of our first recommendation (to refund $3,509,358 to the Federal Government) and with our second recommendation (to identify and recover at least $6,737,760 of unallowable capitation payments made to MCOs). Both of these recommendations involved enrollees who had a date of death recorded in SSA's DMF but who did not have a date of death recorded in the State agency's eligibility system. Regarding the first part of our first recommendation, the State agency stated that we had assumed "that all enrollees in [our] sample were actually deceased" and that we "did not independently perform . . . outreach to presumed deceased members." The State agency also stated that we used "data analysis rather than proving true verification of [our] findings." Accordingly, the State agency characterized our audit work as "inadequate."

Similarly, the State agency referred to our "inadequate approach" in its comments on our second recommendation. Regarding this recommendation, the State agency said that it would "need to spend time disputing the estimates with CMS rather than attempting to identify and recover unallowable capitation payments made to MCOs." Regarding both of these recommendations, the State agency referred to information it had given us during our audit "that demonstrates [that] cases were closed due to reasons other than death," and added that "[c]ase closures for reasons other than death may not result in capitation retractions."

With respect to both of these recommendations, the State agency also said that it "has made substantial system enhancements and process updates since the audit period that have resulted in automated retractions of capitation amounts and repayment of [F]ederal funds." The State agency added that "[r]epaying [F]ederal funds based on an estimate of unallowable expenses may result in duplicative return of [F]ederal funds."

### Office of Inspector General Response

We disagree with the State agency's comments that our audit work was "inadequate" and did not provide "true verification of [our] findings." Our work did not assume "that all enrollees in [our] sample were actually deceased." As explained in our findings and in Appendices A, C, and D, our audit methodology included testing a stratified random sample of 120 capitation payments and using: (1) Accurint, (2) the CDPHE's Center for Health and Environmental Data Vital Statistics Program, and (3) the U.S. Department of the Treasury's Do Not Pay database as alternative data sources to independently verify the dates of death that were recorded in SSA's DMF. As specified in our findings, we verified the dates of death in the DMF for the enrollees associated with 109 of the sampled capitation payments. For the remaining 11 sampled capitation payments, we were unable to verify the dates of death and thus did not include these payments when estimating the value of unallowable capitation payments.

During our audit, we gave the State agency information supporting which data sources we used to verify the dates of death for our sampled capitation payments, and we explained that we were unable to verify the dates of death associated with 11 sampled capitation payments. The State agency is correct that we "did not independently perform . . . outreach to presumed deceased" enrollees, but we disagree that our audit work was therefore "inadequate." Our audit methodology was designed to verify that enrollees were deceased by using independent data sources without performing outreach. We believe that we designed that methodology in accordance with GAGAS and that our methodology provides a reasonable basis for our findings and conclusions based on our audit objective.

We also disagree with the State agency's statement that capitation payments for enrollees in our sample who were not Medicaid-eligible "due to reasons other than death" cannot be retracted (i.e., recouped). Our audit methodology verified that the enrollees associated with the unallowable monthly capitation payments had dates of death that preceded the service periods covered by those payments. Federal regulations state: "Capitation payments may only be made by the State and retained by the MCO . . . for Medicaid-eligible enrollees.[8] CMS has stated that this provision makes clear "that capitation payments may not be made by the [S]tate and retained by the managed care plan for Medicaid enrollees that have died, or who are otherwise no longer Medicaid-eligible. . . ."[9]

Therefore, we continue to recommend that the State agency recoup capitation payments for enrollees whose dates of death preceded the service period covered by those payments because the enrollees were no longer Medicaid-eligible. The information regarding enrollees who were no longer Medicaid-eligible "due to reasons other than death," which the State agency gave us during our audit (and to which it referred in its written comments), did and does not cause us to revise our findings.

Additionally, we disagree with the State agency's statement that "[r]epaying [F]ederal funds based on an estimate of unallowable expenses may result in duplicative return of [F]ederal funds." Federal courts have consistently upheld statistical sampling and extrapolation as a valid means to determine overpayment amounts in Medicare and Medicaid.[10] The estimate conveyed in our second recommendation is based on our sample results and reflects any recoveries as of the start of our audit (i.e., August 23, 2021). If the State agency has recovered additional capitation payments since the start of our audit, it can work with CMS during the audit resolution process to ensure that repayments are not duplicated.

[8] 42 CFR § 438.3(c)(2).

[9] 81 Fed. Reg. 27498, 27537-27538 (May 6, 2016).

[10] See *Yorktown Med. Lab., Inc. v. Perales*, 948 F.2d 84 (2d Cir. 1991); *Illinois Physicians Union v. Miller*, 675 F.2d 151 (7th Cir. 1982); *Momentum EMS, Inc. v. Sebelius*, 2013 U.S. Dist. LEXIS 183591 at *26-28 (S.D. Tex. 2013), *adopted by* 2014 U.S. Dist. LEXIS 4474 (S.D. Tex. 2014); *Anghel v. Sebelius*, 912 F. Supp. 2d 4 (E.D.N.Y. 2012); *Miniet v. Sebelius*, 2012 U.S. Dist. LEXIS 99517 at *17 (S.D. Fla. 2012); *Bend v. Sebelius*, 2010 U.S. Dist. LEXIS 127673 (C.D. Cal. 2010).

We also note that the system improvements that the State agency described in its comments largely align with our procedural recommendations, which we discuss further below.

## PAYMENTS MADE ON BEHALF OF ENROLLEES WHOSE DATES OF DEATH WERE AVAILABLE IN THE STATE AGENCY'S ELIGIBILITY SYSTEM AND IN THE SOCIAL SECURITY ADMINISTRATION'S DEATH MASTER FILE

### State Agency Comments

The State agency disagreed with the second part of our first recommendation (to refund $293,890 to the Federal Government) and with our third recommendation (to identify and recover $582,406 of unallowable capitation payments made to MCOs). Both of these recommendations involved enrollees whose dates of death were recorded in both the State agency's eligibility system and SSA's DMF. Regarding both of these recommendations, the State agency stated that it is unable to "retract payments from providers no longer in business, as well as from [MCOs] whose contracts prohibit such retractions."

With respect to both of these recommendations, the State agency also said that it "has made substantial system enhancements and process updates since the audit period that have resulted in automated retractions of capitation amounts and repayment of [F]ederal funds."

### Office of Inspector General Response

We disagree with the State agency's statement that it is unable to "retract payments from providers no longer in business, as well as from [MCOs] whose contracts prohibit such retractions." With respect to the providers that the State agency determines are no longer in business, the State agency can work with CMS during the audit resolution process to determine whether overpayment amounts are uncollectable. Federal regulations convey the requirements for overpayments involving providers that are no longer in business.[11] Furthermore, States' contracts with MCOs must comply with Federal requirements that specify that capitation payments may only be made by the State and retained by the MCO for Medicaid-eligible enrollees.[12] The State agency's contracts with the MCOs identify overpayments as erroneous payments made because of, among other things, lack of enrollee eligibility. The contracts further allow for recovery of erroneous payments subsequent to the identification of those overpayments.

We also note that the system improvements that the State agency described in its comments largely align with our procedural recommendations, which we discuss further below.

[11] 42 CFR § 433.318.

[12] 42 CFR § 438.3(c)(2); 81 Fed. Reg. at 27537-27538.

**RECOMMENDED REFUND OF MEDICAID EXPENDITURES THAT THE STATE AGENCY HAD PREVIOUSLY OVERREPORTED**

The State agency agreed with the third part of our first recommendation and stated that it had refunded the Federal share on its June 30, 2022, Form CMS-64 and (after further discussion with CMS staff) through an adjustment of its September 30, 2024, Form CMS-64.

We commend the State agency for the corrective actions it described, which will, we believe, resolve the third part of our first recommendation.

**RECOMMENDED REFUND OF CAPITATION PAYMENTS MADE ON BEHALF OF DECEASED ENROLLEES AFTER OUR AUDIT PERIOD**

The State agency agreed with our fourth recommendation and stated that it "has already made enhancements to its processes and will continue to work to repay unallowable capitation payments through system automation, as well as through manual review. The [State agency] continues to make system and process improvements to ensure death data is adequately captured and used to recover funds improperly paid."

We commend the State agency for the corrective actions it described, which when fully executed will, we believe, adequately address our fourth recommendation.

**RECOMMENDED STRENGTHENING OF INTERNAL CONTROLS REGARDING IDENTIFICATION AND VERIFICATION OF DATE-OF-DEATH INFORMATION**

The State agency agreed with our fifth recommendation and stated that it has "already made several changes to its date of death processes since the audit period and continues to strengthen its processes through additional projects in both the eligibility and the claims payment systems." The State agency added that it is continuing to work with CMS "to address our verification plan and the usage of interfaces."

We commend the State agency for the corrective actions it described, which when fully executed will, we believe, adequately address our fifth recommendation.

**RECOMMENDED STRENGTHENING OF POLICIES AND PROCEDURES FOR REPORTING OF ALL MEDICAID EXPENDITURES AND RECONCILIATION OF INFORMATION PROVIDED BY THE STATE AGENCY'S FISCAL DATA VENDOR**

The State agency agreed with our sixth recommendation and stated that it "has implemented additional validation processes to ensure proper reporting." According to the State agency, the errors (involving overreported Medicaid expenditures) resulted from "duplicate reporting" by the State agency's fiscal data vendor. The State agency added that it "now reviews additional reporting to determine if any duplicates exist in the initial data set[,] which allows for time to make any necessary corrections to the report data."

We commend the State agency for the corrective actions it described, which when fully executed will, we believe, adequately address our sixth recommendation.

## APPENDIX A: AUDIT SCOPE AND METHODOLOGY

### SCOPE

We reviewed capitation payments made by the State agency on behalf of enrollees whose dates of death preceded the monthly service periods of January 1, 2018, through December 31, 2020 (audit period). Specifically, our audit covered 234,096 capitation payments totaling $12,966,680 that the State agency made to MCOs and claimed for Federal reimbursement during our audit period. The State agency made these payments on behalf of 8,840 enrollees whose dates of death, as recorded in one or more of the data sources we consulted, preceded the service periods covered by the monthly capitation payments (footnote 5).

Of the 234,096 capitation payments, we identified 127,874 capitation payments totaling $7,822,113 ($4,094,535 Federal share) that were made on behalf of 4,003 enrollees who did not have a date of death recorded in the State agency's eligibility system but who did have a date of death recorded in SSA's DMF that preceded the service period covered by the monthly capitation payment. We also identified 106,222 capitation payments totaling $5,144,567 ($2,591,676 Federal share) that were made on behalf of 4,837 enrollees whose dates of death recorded in the State agency's eligibility system preceded the service periods covered by the monthly capitation payments.

We initiated reviews of all of the 106,222 capitation payments discussed just above. During our audit, we became aware that the State agency had already started to identify and recover capitation payments for deceased enrollees. The State agency had initiated these actions after our audit period but before the start of our audit. Based on this activity, we reduced the amount that we reviewed to 38,826 capitation payments totaling $582,406 ($293,890 Federal share) that were made on behalf of 3,268 enrollees. We verified the dates of death for the 3,268 enrollees associated with the 38,826 capitation payments and determined the total amount and the Federal share of the unallowable capitation payments. When we developed our findings, we reduced the amount of the capitation payments that we identified as unallowable by the amount that the State agency had recovered before the start of our audit.

We then reviewed a total of 38,946 capitation payments totaling $640,156 ($323,573 Federal share). Specifically:

- We reviewed a stratified random sample of 120 capitation payments, totaling $57,750 ($29,683 Federal share), selected from the sampling frame of 127,874 capitation payments totaling $7,822,113 ($4,094,535 Federal share). The State agency made these payments on behalf of 4,003 enrollees who did not have a date of death recorded in the State agency's eligibility system but who did have a date of death recorded in the DMF that preceded the service period covered by the monthly capitation payment. We used these sample results to estimate the total amount and Federal share of the unallowable capitation payments.

- We also reviewed all of the 38,826 capitation payments totaling $582,406 ($293,890 Federal share) that were made on behalf of 3,268 enrollees who had a date of death recorded in the State agency's eligibility system that preceded the service period covered by the monthly capitation payment. We determined the total amount and Federal share of the unallowable capitation payments.

We assessed internal controls and compliance with laws and regulations necessary to satisfy the audit objective. In particular, we assessed the control activities designed and implemented to prevent and detect capitation payments made to MCOs on behalf of deceased enrollees. However, because our audit was limited to this internal control component and underlying principles, it may not have disclosed all internal control deficiencies that may have existed at the time of this audit.

We performed our audit work from August 2021 to October 2024.

**METHODOLOGY**

To accomplish our objective, we:

- reviewed applicable Federal and State laws, regulations, and guidelines;

- gained an understanding of the State agency's internal controls over preventing, identifying, and correcting payments after an enrollee's death;

- reviewed the State agency's contracts with the MCOs for the audit period;

- obtained from the State agency a file of capitation payments made to MCOs on behalf of Medicaid enrollees for the audit period;

- requested that the State agency reconcile: (1) the 125,293,739 capitation payments totaling $4,096,612,040 that it made to MCOs during the audit period to (2) the Forms CMS-64 that the State agency had prepared and submitted to CMS;

- matched the capitation payment data to the DMF and created the following lists of capitation payments that the State agency made to MCOs on behalf of 8,840 enrollees whose dates of death preceded the months in which the capitation payments were made:

    - 127,874 capitation payments totaling $7,822,113 ($4,094,535 Federal share) that were made on behalf of 4,003 enrollees who had a date of death recorded in the DMF that preceded the service period covered by the monthly capitation payment but who did not have a date of death recorded in the State agency's eligibility system (Appendix C), and

- 106,222 capitation payments totaling $5,144,567 ($2,591,676 Federal share) made on behalf of 4,837 enrollees who had a date of death recorded in the DMF that preceded the service period covered by the monthly capitation payment and who had a date of death recorded in the State agency's eligibility system that did not always agree with the information in the DMF;

- from the 127,874 capitation payments totaling $7,822,113 ($4,094,535 Federal share) made on behalf of enrollees who did not have a date of death recorded in the State agency's eligibility system but who had a date of death recorded in the DMF that preceded the service period covered by the monthly capitation payment, selected for review a stratified random sample of 120 capitation payments totaling $57,750 ($29,683 Federal share);

- reviewed all 38,826 capitation payments totaling $582,406 ($293,890 Federal share) made on behalf of 3,268 enrollees whose dates of death recorded in the State agency's eligibility system preceded the service periods covered by the monthly capitation payments;

- for each sampled capitation payment, obtained current documentation from the State agency to support:

  - the enrollees' first and last names, Social Security numbers (SSNs), dates of birth (ensuring that the information matched the DMF), and Medicaid identification numbers;

  - whether the State agency's eligibility system identified the enrollees' dates of death;

  - that a capitation payment occurred for the capitation payment month (ensuring the accuracy of the paid amount); and

  - whether any adjustments were made for the sampled capitation payments;

- for each of the sampled capitation payments, used Accurint, the CDPHE's Center for Health and Environmental Data Vital Statistics Program, and the U.S. Department of the Treasury's Do Not Pay database as alternative data sources to independently confirm the dates of death on file with the DMF;

- for each of the capitation payments we reviewed for this audit, requested the State agency to provide the Federal share of the capitation payments made after an enrollee's death;

- determined the total amount and Federal share of the 38,826 unallowable capitation payments made on behalf of deceased enrollees who had a date of death recorded in the State agency's eligibility system that preceded the service period covered by the monthly capitation payment;

- used OIG, Office of Audit Services (OAS), statistical software to estimate the total amount and Federal share of unallowable capitation payments made on behalf of deceased enrollees who did not have a date of death recorded in the State agency's eligibility system but who did have a date of death recorded in the DMF that preceded the service period covered by the monthly capitation payment; and

- provided State agency officials with data supporting the results of our findings, solicited the State agency's input on these findings to determine their causes, and subsequently discussed the results of our audit with State agency officials.

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

## APPENDIX B: RELATED OFFICE OF INSPECTOR GENERAL REPORTS

| Report Title | Report Number | Date Issued |
|---|---|---|
| *Delaware Made Capitation Payments to Medicaid Managed Care Organizations After Enrollees' Deaths* | A-03-22-00205 | 3/25/24 |
| *Puerto Rico Claimed Over $7 Million in Federal Reimbursement for Medicaid Capitation Payments Made on Behalf of Enrollees Who Were or May Have Been Deceased* | A-02-21-01005 | 9/11/23 |
| *Virginia Made Capitation Payments to Medicaid Managed Care Organizations After Enrollees' Deaths* | A-03-22-00203 | 7/19/23 |
| *Kansas Made Capitation Payments to Managed Care Organizations After Beneficiaries' Deaths* | A-07-20-05125 | 9/1/21 |
| *North Carolina Made Capitation Payments to Managed Care Entities After Beneficiaries' Deaths* | A-04-16-00112 | 9/25/20 |
| *The New York State Medicaid Agency Made Capitation Payments to Managed Care Organizations After Beneficiaries' Deaths* | A-04-19-06223 | 7/27/20 |
| *Michigan Made Capitation Payments to Managed Care Entities After Beneficiaries' Deaths* | A-05-17-00048 | 2/14/20 |
| *The Indiana State Medicaid Agency Made Capitation Payments to Managed Care Organizations After Beneficiaries' Deaths* | A-05-19-00007 | 1/29/20 |
| *The Minnesota State Medicaid Agency Made Capitation Payments to Managed Care Organizations After Beneficiaries' Deaths* | A-05-17-00049 | 10/1/19 |
| *Illinois Medicaid Managed Care Organizations Received Capitation Payments After Beneficiaries' Deaths* | A-05-18-00026 | 8/20/19 |

| Report Title | Report Number | Date Issued |
|---|---|---|
| *Georgia Medicaid Managed Care Organizations Received Capitation Payments After Beneficiaries' Deaths* | A-04-15-06183 | 8/9/19 |
| *California Medicaid Managed Care Organizations Received Capitation Payments After Beneficiaries' Deaths* | A-04-18-06220 | 5/7/19 |
| *Ohio Medicaid Managed Care Organizations Received Capitation Payments After Beneficiaries' Deaths* | A-05-17-00008 | 10/4/18 |
| *Wisconsin Medicaid Managed Care Organizations Received Capitation Payments After Beneficiaries' Deaths* | A-05-17-00006 | 9/27/18 |
| *Tennessee Managed Care Organizations Received Medicaid Capitation Payments After Beneficiary's Death* | A-04-15-06190 | 12/22/17 |
| *Texas Managed Care Organizations Received Medicaid Capitation Payments After Beneficiary's Death* | A-06-16-05004 | 11/14/17 |
| *Florida Managed Care Organizations Received Medicaid Capitation Payments After Beneficiary's Death* | A-04-15-06182 | 11/30/16 |

## APPENDIX C: STATISTICAL SAMPLING METHODOLOGY

### SAMPLING FRAME

Our sampling frame consisted of 127,874 capitation payments totaling $7,822,113 that were made on behalf of enrollees who did not have a date of death recorded in the State agency's eligibility system, but who had a date of death recorded in the DMF that preceded the service period covered by the monthly capitation payment, for 2018 through 2020.

### SAMPLE UNIT

The sample unit was a monthly capitation payment.

### SAMPLE DESIGN AND SAMPLE SIZE

We used a stratified random sample as depicted in Table 1:

**Table 1: Strata Based on Medicaid Capitation Payments Without a Date of Death Recorded in the State Agency's Eligibility System**

| | Frame Information | | | |
|---|---|---|---|---|
| Stratum | Capitation Payment Range | Number of Capitation Payments | Amount of Capitation Payments | Sample Size |
| 1 | $11.50 to $38.23 | 67,990 | $968,370 | 30 |
| 2 | $38.24 to $119.18 | 48,998 | 2,947,305 | 30 |
| 3 | $119.19 to $459.09 | 9,903 | 2,271,904 | 30 |
| 4 | $459.10 to $4,450.51 | 983 | 1,634,534 | 30 |
| | **Totals** | **127,874** | **$7,822,113** | **120** |

### SOURCE OF RANDOM NUMBERS

We generated the random numbers using the OIG, OAS, statistical software.

### METHOD OF SELECTING SAMPLE UNITS

We sorted the items in each stratum by capitation payment amount, Beneficiary Medicaid ID, and date of service, and then consecutively numbered the items in each stratum in the sampling frame. A statistical specialist generated the random numbers for our sample according to our sample design, and then the corresponding frame items were selected for review.

**ESTIMATION METHODOLOGY**

We used the OIG, OAS, statistical software to estimate the total value and Federal share of unallowable capitation payments in our sampling frame made on behalf of deceased enrollees who did not have a date of death recorded in the State agency's eligibility system. To be conservative, we recommend recovery of unallowable payments at the lower limit of a two-sided 90-percent confidence interval. Lower limits calculated in this manner are designed to be less than the actual overpayment total 95 percent of the time.

We identified an additional 38,826 unallowable capitation payments (not in our sampling frame), totaling $582,406 ($293,890 Federal share), made on behalf of 3,268 enrollees whose dates of death recorded in the State agency's eligibility system and in the DMF preceded the service periods covered by the capitation payments. We added the estimated total and Federal share of unallowable capitation payments for the statistical sample to the total and Federal share of the additional 38,826 unallowable capitation payments to obtain the total estimated value of unallowable capitation payments (Appendix D).

## APPENDIX D: SAMPLE RESULTS AND ESTIMATES

### Table 2: Sample Results (Total Amount)

| Stratum | Number of Capitation Payments in Frame | Value of Capitation Payments in Frame | Sample Size | Value of Sample | Number of Unallowable Capitation Payments in Sample | Value of Unallowable Capitation Payments in Sample |
|---|---|---|---|---|---|---|
| 1 | 67,990 | 968,370 | 30 | $460 | 27 | $415 |
| 2 | 48,998 | 2,947,305 | 30 | 1,822 | 28 | 1,729 |
| 3 | 9,903 | 2,271,904 | 30 | 7,532 | 27 | 6,378 |
| 4 | 983 | 1,634,534 | 30 | 47,936 | 27 | 45,325 |
| **Total** | **127,874** | **$7,822,113** | **120** | **$57,750** | **109** | **$53,847** |

### Table 3: Estimated Value of Unallowable Capitation Payments (Limits Calculated at the 90-percent Confidence Level)

| Description | Total Amount | | | Federal Share | | |
|---|---|---|---|---|---|---|
| | Point Estimate | Lower Limit | Upper Limit | Point Estimate | Lower Limit | Upper Limit |
| Estimated Value of Unallowable Capitation Payments in the Sampling Frame[13] | $7,355,382 | $6,737,760 | $7,822,113 | $3,830,925 | $3,509,358 | $4,094,535 |
| Value of 38,826 Additional Unallowable Capitation Payments Outside Sampling Frame | $582,406 | $582,406 | $582,406 | $293,890 | $293,890 | $293,890 |
| Total Estimated Unallowable Capitation Payments | $7,937,788 | $7,320,166 | $8,404,519 | $4,124,815 | $3,803,248 | $4,388,425 |

[13] The upper limits calculated using the OIG, OAS, statistical software for the unallowable capitation amounts (Total and Federal Share) were $7,973,004 and $4,152,491, respectively. We adjusted these estimates downward to reflect the known values of the sampling frame.


303 East 17th Avenue, Suite 1100
Denver, CO 80203

November 8, 2024

Mr. James Korn
Regional Inspector General for
Audit Services
Office of Audit Services, Region VII
1201 Walnut Street,
Suite 1338
Kansas City, MO 64106

Re: A-07-21-05132

Dear Mr. Korn:

Enclosed is the Department of Health Care Policy and Financing response to the Department of Health and Human Services, Office of Inspector General (OIG), draft report *Colorado Made Capitation Payments to Managed Care Organizations After Enrollees' Deaths.*

If you have any questions or need additional information, please contact Melissa Mull at melissa.mull@state.co.us.

Sincerely,

/Melissa Mull/

Melissa Mull
External Audits Compliance Officer

Cc: Ms. Charlie Arnold, Acting Director Audit & Review Branch, Center for Medicaid and CHIP Services, Centers for Medicare & Medicaid Services

Colorado Department of Health Care Policy and Financing Response to the Department of Health and Human Services Office of Inspector General (OIG) Audit Draft Report Titled ***Colorado Made Capitation Payments to Managed Care Organizations After Enrollees' Deaths***

***(A-07-21-05132)***

**OIG Recommendations and Department Responses**

*We recommend that the Colorado Department of Health Care Policy and Financing:*

• refund $6,012,198 to the Federal Government, consisting of:

- $3,509,358 (Federal share) of capitation payments made on behalf of deceased enrollees who had a date of death recorded in SSA's DMF but not in the State agency's eligibility system,

Response: DISAGREE:

The Department disagrees with the OIG's assumption that all members in their sample were actually deceased when identified by the OIG. The OIG uses data analysis rather than proving true verification of their findings. CMS expects the Department to perform additional verifications when information in our eligibly system states the member was not decreased at the time. OIG disregards CMS' direction that states cannot rely on the SSA's interface and other electronic interfaces due to errors in those interfaces and must directly contact a member prior to terminating their eligibility due to death. The OIG did not independently perform such outreach to presumed deceased members, so the Department determines their work to be inadequate.

The Department has furnished information to the OIG that demonstrates cases were closed due to reasons other than death such as failure to respond, residency out of state, etc. Case closures for reasons other than death may not result in capitation retractions. The Department cannot recover those capitations based on the OIG's assumption that the member is deceased. The Department demonstrated its reliance in using information received from SSA interfaces based on its Eligibility Verification Plan as required by CMS. In addition, the Department demonstrated that some of the cases in the sample population did not receive death updates through SSA interfaces.

Further, the Department has made substantial system enhancements and process updates since the audit period that have resulted in automated retractions of capitation amounts and repayment of federal funds at the case level. Repaying federal funds based on an estimate of unallowable expenses may result in duplicative return of federal funds. Based on the OIG's incomplete review, the Department must disagree with the OIG's recommendation and will dispute any recovery effort of these funds.

- $293,890 (Federal share) of capitation payments made on behalf of deceased enrollees who had a date of death recorded in SSA's DMF and in the State agency's eligibility system, and

Response: DISAGREE:

The Department has made substantial system enhancements and process updates since the audit period that resulted in automated retractions of capitation amounts and repayment of federal funds at the case level. Prior to these enhancements, capitation payments were reconciled manually. Additionally, the Department has furnished information to the auditors regarding its inability to retract payments from providers no longer in business, as well as from entities whose contracts prohibit such retractions.

- $2,208,950 (Federal share) in other Medicaid expenditures that the State agency had previously overreported;

Response: AGREE.

The Department originally returned the federal share on the 6/30/2022 CMS-64. After further discussion with CMS Regional Office Financial Staff, the Department made an adjustment to the 9/30/2024 CMS-64 to include the OIG audit number for reporting purposes.

- identify and recover unallowable capitation payments made to MCOs during our audit period on behalf of deceased enrollees who did not have a date of death recorded in the State agency's eligibility system but who did have a date of death recorded in the DMF, which we estimate to be at least $6,737,760;

Response: DISAGREE:

Based on the OIG's inadequate approach in reaching the financial estimates in this report, the Department will need to spend time disputing the estimates with CMS rather than attempting to identify and recover unallowable capitation payments made to MCOs. The Department has furnished information that demonstrates cases were closed due to reasons other than death such as failure to respond, residency out of state, etc. Case closures for reasons other than death may not result in capitation retractions. Additionally, the Department demonstrated its reliance in using information received from SSA interfaces based on its Verification Plan as required by CMS. In addition, the Department demonstrated that some of the cases in the sample population did not receive death updates through SSA interfaces and therefore no action was taken on the case.

The Department has made substantial system enhancements and process updates since the audit period that have resulted in automated retractions of capitation amounts and repayment of federal funds at the case level. Repaying federal funds based on an estimate of unallowable expenses may result in duplicative return of federal funds. Based on the OIG's incomplete review, the Department must disagree with the OIG's recommendation and will dispute any recovery effort of these funds.

- recover unallowable capitation payments totaling $582,406 that were made to MCOs during our audit period on behalf of deceased enrollees who did have a date of death recorded in the State agency's eligibility system;

Response: DISAGREE:

The Department has made substantial system enhancements and process updates since the audit period that resulted in automated retractions of capitation amounts and repayment of federal funds at the case level. Additionally, the Department has furnished information to the auditors regarding its inability to retract payments from providers no longer in business, as well as from entities whose contracts prohibit such retractions. Based on the OIG's approach, the Department must disagree with the OIG's recommendation and will dispute any recovery effort of these funds.

- identify and recover unallowable capitation payments made on behalf of deceased enrollees after our audit period and repay the Federal share of any amounts recovered;

Response: AGREE:

Since the OIG audited a historical period that is no longer relevant to the processes currently implemented by the Department, the audit does not provide any information that the Department can use to implement changes. The Department has already made enhancements to its processes and will continue to work to repay unallowable capitation payments through system automation, as well as through manual review. The Department continues to make system and process improvements to ensure death data is adequately captured and used to recover funds improperly paid.

- strengthen internal controls, to include strengthening policies and procedures on identifying and verifying date-of-death information, so that the State agency's eligibility system is updated based on information provided by data sources, and that capitation payments that have been made on behalf of verified deceased enrollees are recovered;

Response: AGREE:

Since the OIG audited a historical period that is no longer relevant to the processes currently implemented by the Department, the audit does not provide any information that the Department can use to implement changes. The Department has already made several changes to its date of death processes since the audit period and continues to strengthen its processes through additional projects in both the eligibility and the claims payment systems. The Department continues to work with CMS to address our verification plan and the usage of interfaces.

and

- strengthen policies and procedures for the accurate reporting of all Medicaid expenditures to CMS, to include strengthening the State agency's procedures for the routine reconciliation of information provided by the State agency's fiscal data vendor, so that only actually incurred Medicaid expenditures are reported on the Forms CMS-64 to CMS.

Response: AGREE:

The Department has implemented additional validation processes to ensure proper reporting. The error was caused by duplicate reporting from the third-party vendor who produces the CMS-64 reporting data. The Department now reviews additional reporting to determine if any duplicates exist in the initial data set which allows for time to make any necessary corrections to the report data.

# Report Fraud, Waste, and Abuse

OIG Hotline Operations accepts tips and complaints from all sources about potential fraud, waste, abuse, and mismanagement in HHS programs. Hotline tips are incredibly valuable, and we appreciate your efforts to help us stamp out fraud, waste, and abuse.



**TIPS.HHS.GOV**

**Phone: 1-800-447-8477**

**TTY: 1-800-377-4950**

## Who Can Report?

Anyone who suspects fraud, waste, and abuse should report their concerns to the OIG Hotline. OIG addresses complaints about misconduct and mismanagement in HHS programs, fraudulent claims submitted to Federal health care programs such as Medicare, abuse or neglect in nursing homes, and many more. Learn more about complaints OIG investigates.

## How Does It Help?

Every complaint helps OIG carry out its mission of overseeing HHS programs and protecting the individuals they serve. By reporting your concerns to the OIG Hotline, you help us safeguard taxpayer dollars and ensure the success of our oversight efforts.

## Who Is Protected?

Anyone may request confidentiality. The Privacy Act, the Inspector General Act of 1978, and other applicable laws protect complainants. The Inspector General Act states that the Inspector General shall not disclose the identity of an HHS employee who reports an allegation or provides information without the employee's consent, unless the Inspector General determines that disclosure is unavoidable during the investigation. By law, Federal employees may not take or threaten to take a personnel action because of whistleblowing or the exercise of a lawful appeal, complaint, or grievance right. Non-HHS employees who report allegations may also specifically request confidentiality.

# Stay In Touch

Follow HHS-OIG for up to date news and publications.

 OIGatHHS

 HHS Office of Inspector General

Subscribe To Our Newsletter

OIG.HHS.GOV

# Contact Us

For specific contact information, please visit us online.

U.S. Department of Health and Human Services
Office of Inspector General
Public Affairs
330 Independence Ave., SW
Washington, DC 20201

Email: Public.Affairs@oig.hhs.gov