Memorandum

Date MAY 28 2002

From Thomas D. Roslewicz
Deputy Inspector General
for Audit Services

Subject Review Of Medicaid Claims Made For Aged 21 To 64 Year Old Residents Of Private Psychiatric Hospitals Within New York State (A-02-01-01006)

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

As part of self-initiated audits by the Office of Inspector General, we are alerting you to the issuance within 5 working days from the date of this memorandum of our final report entitled, "Review Of Medicaid Claims Made For Aged 21 To 64 Year Old Residents Of Private Psychiatric Hospitals Within New York State." A copy of the report is attached. This report is one of a series of reports involving our multi-State review of patients in institutions for mental diseases (IMD). We suggest you share this report with components of the Centers for Medicare & Medicaid Services (CMS) 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 New York State (NYS) 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 would be inpatient acute care hospital, physician, pharmacy, and laboratory services. Our audit period was July 1, 1997 through September 30, 2000.

Our review determined that although controls existed to prevent FFP from being claimed for inpatient psychiatric and alcoholism services, NYS did not have controls to prevent FFP from being claimed for other types of medical services provided to 21 to 64 year old residents of private psychiatric hospitals. As a result, we estimate that NYS improperly claimed $112,925 of FFP during our July 1, 1997 through September 30, 2000 audit period. Of this amount, $75,183 was for medical and ancillary claims, $36,710 was for inpatient claims, and $1,032 was for an improper inpatient psychiatric hospital claim.

We recommended that the State (1) refund $112,925 to the Federal Government for the improper FFP claims identified by our audit; (2) establish controls to prevent FFP from being claimed for medical services provided to residents of private psychiatric hospitals between the ages of 21 to 64 years old; and (3) identify and return the improper FFP claimed subsequent to our September 30, 2000 audit cut-off date.

New York officials generally agreed with all of our recommendations. However, they did not agree with a portion of our recommended adjustment amount that related to reserved bed day claims made by nursing facilities for 21 to 64 year old residents of the IMDs. Reserved bed day claims were $15,508 of the $112,925 of FFP questioned by our audit. State officials believed that this disallowance would be contrary to CMS policy on reserved bed days.

We disagreed with NYS officials. Based on our interpretation of the Social Security Act and implementing Federal regulations, there is no exception to the IMD exclusion and therefore the FFP claimed by NYS for the reserved bed days would be improper. Officials at CMS concurred that FFP should not have been claimed for these reserved bed days.

Any questions or comments on any aspect of this memorandum are welcome. Please address them to George M. Reeb, Assistant Inspector General for Centers for Medicare and Medicaid Division, at (410) 786-7104 or Timothy J. Horgan, Regional Inspector General for Audit Services, Region II, at (212) 264-4620.

Attachment

Department of Health and Human Services

OFFICE OF INSPECTOR GENERAL

REVIEW OF MEDICAID CLAIMS MADE FOR AGED 21 TO 64 YEAR OLD RESIDENTS OF PRIVATE PSYCHIATRIC HOSPITALS WITHIN NEW YORK STATE

JANET REHNQUIST
INSPECTOR GENERAL

MAY 2002
A-02-01-01006

Office Of Inspector General
Office Of Audit Services

DEPARTMENT OF HEALTH & HUMAN SERVICES

Region II
Jacob K. Javits Federal Building
26 Federal Plaza
New York, NY 10278

Common Identification Number: A-02-01-01006

MAY 31 2002

Dr. Antonia C. Novello, M.D.
Commissioner
New York State Department of Health
Empire State Plaza
14th Floor, Room 1408
Corning Tower
Albany, New York 12237

Dear Dr. Novello:

Enclosed are two copies of the Department of Health and Human Services (HHS), Office of Inspector General, Office of Audit Services' (OIG/OAS) final report entitled, "Review Of Medicaid Claims Made For Aged 21 To 64 Year Old Residents Of Private Psychiatric Hospitals Within New York State." Our audit covered the period July 1, 1997 through September 30, 2000. A copy of this report will be forwarded to the HHS 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/OAS reports are made available to members of the 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). 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 Common Identification Number A-02-01-01006 in all correspondence relating to this report.

Sincerely yours,

Timothy J. Horgan
Regional Inspector General
for Audit Services

Enclosures – as stated

Direct Reply to HHS Action Official:

Mr. Peter Reisman
Associate Regional Administrator
Division of Financial Management
Centers for Medicare & Medicaid Services, Region II
Department of Health and Human Services
26 Federal Plaza, Room 38-130
New York, New York 10278

EXECUTIVE SUMMARY

Background

Federal law and regulations prohibit Federal financial participation (FFP) for all services provided to residents of institutions for mental diseases (IMD) who are between the ages of 22 to 64, and in certain instances those who are 21 years old. The basis for the IMD exclusion of FFP was established in the 1950 amendments to the Social Security 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 Social Security 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.

Objective

The objective of the review was to determine if controls were in place to effectively preclude New York State (NYS) 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 would be inpatient acute care hospital, physician, pharmacy, and laboratory services. Our audit period was July 1, 1997 through September 30, 2000.

Summary of Findings

Our review determined that although controls existed to prevent FFP from being claimed for inpatient psychiatric and alcoholism services, NYS did not have controls to prevent FFP from being claimed for other types of medical services provided to 21 to 64 year old residents of private psychiatric hospitals.

As a result, we estimate NYS improperly claimed $112,925 of FFP during our July 1, 1997 through September 30, 2000 audit period. Of this amount, $75,183 was for medical and ancillary claims, $36,710 was for inpatient claims, and $1,032 was for an improper inpatient psychiatric hospital claim.

Recommendations

We recommended that NYS:

1. Refund $112,925 to the Federal Government for the improper FFP claims identified by our audit.

2. Establish controls to prevent FFP from being claimed for medical services provided to residents of private psychiatric hospitals between the ages of 21 to 64 years old.

3. Identify and return the improper FFP claimed subsequent to our September 30, 2000 audit cut-off date.

Auditee's Comments

In response to our draft report, NYS officials generally agreed with all of our recommendations. However, they did not agree with a portion of our recommended adjustment amount that related to reserved bed day claims made by nursing facilities for 21 to 64 year old residents of the IMDs. Reserved bed day claims were $15,508 of the $112,925 of FFP questioned by our audit. State officials believe that this disallowance would be contrary to the Centers for Medicare & Medicaid Services (CMS) policy on reserved bed days. The State's response is included in its entirety as APPENDIX E to this report.

OIG's Response

We disagree with NYS officials. Based on our interpretation of the Social Security Act and implementing Federal regulations, there is no exception to the IMD exclusion and therefore the FFP claimed by NYS for the reserved bed days would be improper. Officials at CMS concurred that FFP should not have been claimed for these reserved bed days.

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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) who are between the ages of 22 to 64, and in certain instances those who are 21 years old. 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) states 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 in 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 (including New York) 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 addition to the State Medicaid Manual, Region II CMS issued Medicaid State Operations Letter 91-1 to New York State (NYS) on January 4, 1991. This letter states in part that:

> "Regulations at 42 CFR 435.1008 provide that individuals who are inmates of public institutions and individuals who are inpatients of IMDs and are between the ages of 22 and 65 may not have Federal financial participation (FFP) paid on their behalf for medical services they receive."

In summary, the Act and implementing regulations, transmittals to the State Medicaid Manual, and Region II's Medicaid State Operations Letter 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.

New York's Medicaid Program

In NYS, the Department of Health (DOH) is the single State agency responsible for operating the State's title XIX Medicaid program. Within the NYS DOH, the Office of Medicaid Management is responsible for administering the Medicaid program. The DOH uses the Medicaid Management Information System (MMIS), a computerized payment and information reporting system, to process and pay Medicaid claims. Additionally, within NYS, the Office of Mental Health (OMH) sets mental health policy and operates psychiatric hospitals throughout the State. Private psychiatric hospitals within NYS are under both the DOH's and the OMH's jurisdiction.

Objective, Scope, and Methodology

The objective of the review was to determine if controls were in place to effectively preclude NYS 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 would be inpatient acute care hospital, physician, pharmacy, and laboratory services.

Our review was conducted in accordance with generally accepted government auditing standards. Our audit period was July 1, 1997 through September 30, 2000. During our audit, we did not review the overall internal control structure of the State or the Medicaid program. Rather, 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.

In order to accomplish our audit objective we:

- Held discussions with CMS officials and obtained an understanding of CMS' guidance provided to NYS regarding IMD issues.

- Held discussions with State agency officials to ascertain policies and procedures for claiming FFP under the Medicaid program for 21 to 64 year old residents of private psychiatric hospitals in NYS.

- Obtained an understanding of computer edits and controls established by NYS regarding the claiming of FFP for medical services provided to aged 21 to 64 year old residents of private psychiatric hospitals.

- Obtained a listing of 12 private psychiatric hospitals within the State from NYS OMH. We compared this list to one we obtained from CMS. Of the 12, we determined that 1 private psychiatric hospital closed in October 2000 and another changed ownership in

- May 2000. Therefore, for audit purposes, only 10 private psychiatric hospitals were included in our review. The list of the 10 private psychiatric hospitals are shown in APPENDIX A of our report.

- Ran a computer programming application to determine if NYS improperly claimed FFP under the Medicaid program for inpatient psychiatric services for residents of the private psychiatric hospitals between the ages of 21 to 64.

- Sent a letter to each of the 10 private psychiatric hospitals along with a questionnaire to obtain an understanding of each hospital's admissions, billing, record keeping, and services provided as well as their understanding of applicable State and Federal laws, regulations, and guidelines. We visited 6 of the 10 hospitals. While at the hospitals, we interviewed appropriate hospital officials and reviewed a judgmental sample of beneficiaries' medical records. We sent letters and questionnaires to the remaining four private psychiatric hospitals and obtained their responses to our questionnaires.

- Identified a universe of all Medicaid eligible residents between the ages of 21 to 64 who were admitted to the 10 private psychiatric hospitals during our audit period. In total, we identified 3,553 Medicaid eligible beneficiaries between the ages of 21 to 64 who were admitted to the 10 private psychiatric hospitals during our audit period.

- Used computer programming to match the 3,553 beneficiaries' admission and discharge dates against the 8 types of paid claims' files at Computer Sciences Corporation, the MMIS fiscal agent, to determine if FFP claims to Medicaid were made on behalf of the 21 to 64 year old residents of the private psychiatric hospitals. The eight matched files were inpatient, clinic, practitioner, laboratory, pharmacy, dental, home health, and durable medical equipment (DME). Our match identified 30,055 FFP claims totaling $1,825,405 (Federal share $913,108).

- Performed a 100 percent review of 386 inpatient claims identified by our match and used stratified random sampling techniques to select a sample of 133 claims from the universe of 29,669 FFP claims from the remaining 7 files. APPENDIX B to our report contains the details of our sampling methodology for the 29,669 claims.

- Reviewed documentation obtained from the medical and billing records of both the private psychiatric hospitals and the medical service providers for the claims under review. This documentation was obtained by either performing site visits to or by receiving facsimiles from the private psychiatric hospitals and the medical service providers. In certain instances, letters were sent to the medical service providers requesting the documentation.

- Used a variables appraisal program to estimate the dollar impact of the improper claims in the total population of 29,669 medical and ancillary claims.

Audit field work was performed at the NYS DOH, the NYS OMH, the private psychiatric hospitals, medical service providers, and at our Albany field office from December 2000 to November 2001.

FINDINGS AND RECOMMENDATIONS

Our review determined that although controls existed to prevent FFP from being claimed for inpatient psychiatric and alcoholism services, NYS did not have controls to prevent FFP from being claimed for other types of medical services provided to 21 to 64 year old residents of private psychiatric hospitals. As a result, we estimate NYS improperly claimed $112,925 of FFP during our July 1, 1997 through September 30, 2000 audit period.

Review Of Controls

Our review determined that NYS had edits within its MMIS to prevent FFP from being claimed under the Medicaid program for inpatient psychiatric and alcoholism services provided to 21 to 64 year old residents of private psychiatric hospitals that are IMDs.

We found that NYS has a rate code driven edit (edit number 00856) within its MMIS which prevents private psychiatric hospitals from receiving Medicaid reimbursement for inpatient psychiatric services provided to beneficiaries between the ages of 21 to 64 years old. This edit results in denial code "00856," which has as its remarks, "Inappropriate Age for Psych Patient," when a claim is submitted for payment using rate code 2858 (inpatient psychiatric services rate code) for a 21 to 64 year old beneficiary. Since NYS's Medicaid program does not pay for these services, FFP is not being claimed.

In section 2.2.8.1 of NYS's Inpatient MMIS Provider Manual, under the heading Psychiatric Hospitals, it states that:

> "For hospital care in institutions or facilities primarily or exclusively for treatment of the mentally ill, Medicaid reimbursement is available only for individuals under 21 years of age or over 65 years of age. In the case of a person who attains the age of 21 during the course of hospitalization, reimbursement for hospital services may continue until he/she reaches the age of 22."

In addition to the inpatient psychiatric edit discussed above, NYS had an edit within its MMIS that made inpatient alcoholism claims submitted by certain providers, federally non-participating (FNP), for beneficiaries of all ages. Claims submitted by certain providers using rate codes 4212 and 4213 (inpatient alcoholism rate codes) were paid under the Medicaid program, but the Federal Government did not share in these claims.

Two of the 10 private psychiatric hospitals included in our audit (BryLin and South Oaks) had inpatient alcoholism units. Claims for 21 to 64 year old residents of these inpatient alcoholism units (using rate codes 4212 and 4213) were paid to the 2 hospitals under NYS's Medicaid program, but these claims were FNP.

Officials at NYS informed us that for the most part, private psychiatric hospitals within NYS do not admit 21 to 64 year old Medicaid beneficiaries. As a result, no specific edits or controls were established by the State to prevent FFP from being claimed for other types of medical services provided to Medicaid beneficiaries within this age group. Officials indicated that some private psychiatric hospitals may admit Medicaid eligible 21 to 64 year old patients as free or charity care. Officials at OMH stated that there were no written policies instructing private psychiatric hospitals to not admit 21 to 64 year old Medicaid beneficiaries. However, they indicated that officials at the private psychiatric hospitals had been told that they would not receive Medicaid reimbursement for beneficiaries within this age group.

We found that, contrary to NYS officials' belief, the 10 private psychiatric hospitals included in our audit admitted 3,553 Medicaid eligible beneficiaries between the ages of 21 to 64 years old during our audit period. Our review noted that controls were not in place to prevent FFP from being claimed for other types of medical services provided to these residents.

Of the 3,553 Medicaid beneficiaries, 2,497 were inpatient alcohol admissions, 1,007 were dually eligible Medicare/Medicaid admissions, and 49 were Medicaid only admissions. The 2,497 inpatient alcohol admissions were identified from the FNP claims that were paid to BryLin and South Oaks Hospitals and officials at the 10 private psychiatric hospitals identified the remaining admissions.

We matched the 3,553 beneficiaries' Medicaid identification numbers and their IMD admission and discharge dates against the 8 paid claims files at the MMIS fiscal agent. The purpose of this match was to identify potentially improper FFP claims made on behalf of this population. Our match identified 30,055 FFP claims totaling $1,825,405 (FFP $913,108). Of the 30,055 claims, 386 were from our match of the inpatient file and 29,669 were from our match of the remaining 7 files. The 29,669 claims were for medical and ancillary services.

Medical And Ancillary Claims

Our review determined that NYS improperly claimed at least $75,183 of FFP under the Medicaid program for medical and ancillary claims made for 21 to 64 year old residents of private psychiatric hospitals that are IMDs. This occurred because NYS had not established controls to prevent FFP from being claimed for medical services provided to this population.

As stated above, our match identified 29,669 FFP claims for medical and ancillary services. The 29,669 claims were made on behalf of 2,363 of the 3,553 beneficiaries. The total Medicaid reimbursement for the 29,669 claims was $711,425 of which the Federal share was $356,119. APPENDIX C to our report shows the types of services for the 29,669 claims.

Stratified random sampling techniques were used to select a sample of 133 claims totaling $55,217 (Federal share $27,608) from the universe of 29,669 Medicaid FFP claims. The sample consisted of 2 strata, 100 claims totaling $2,576 (Federal share $1,288) and 33 claims totaling $52,641 (Federal share $26,320).

The determination as to whether an FFP sample claim was improper and unallowable was based on applicable Federal laws and regulations. Specifically, if the following four characteristics were met, the FFP claim under review was considered improper and unallowable:

(i) The beneficiary was a resident of an IMD on the service date of the FFP claim under review.

(ii) The beneficiary was between the ages of 22 to 64 or aged 21 at admission to the IMD.

(iii) The service date of the FFP claim under review was during the period that the beneficiary was an IMD resident.

(iv) The provider who rendered the services was paid and NYS claimed FFP for the service rendered.

To evaluate the 133 sample claims against the 4 criteria above, we reviewed documentation obtained from the medical and billing records of both the private psychiatric hospitals and the medical service providers. We obtained this documentation by either performing site visits to or by receiving facsimiles from the private psychiatric hospitals and the medical service providers. In certain instances, letters were sent to the medical service providers requesting the documentation.

Our review determined that 78 of the 100 FFP claims in stratum 1 and 1 of the 33 FFP claims in stratum 2 were improper and unallowable. Of the 78 claims, 75 were physician claims, 2 were clinic claims, and 1 was a pharmacy claim. The NYS claimed $635 of improper FFP for the 78 claims in error. The one improper FFP claim in stratum two was a pharmacy claim that totaled $591 of FFP.

An example of an unallowable sample claim was for a 45 year old Medicaid beneficiary who was admitted to Four Winds Saratoga hospital on July 6, 1998 and was discharged on July 31, 1998. A physician rendered a service to this beneficiary on July 13, 1998, while he was a resident of Four Winds Saratoga. Medicaid paid the physician $22.11 and NYS improperly claimed $11.05 of FFP for the service.

Extrapolating the results of the statistical sample, we estimate that NYS improperly claimed between $75,183 and $302,241 of FFP during our July 1, 1997 through September 30, 2000 audit period. The midpoint of the confidence interval amounted to $188,712 of FFP. The range shown has a 90 percent level of confidence with a sampling precision as a percentage of the midpoint of 60.16 percent. The details of our sample appraisal are shown in APPENDIX D of our report.

Inpatient Claims

Our review determined that NYS improperly claimed $36,710 of FFP under the Medicaid program for inpatient claims made on behalf of 21 to 64 year old residents of private psychiatric hospitals that are IMDs. This occurred because controls were not in place to prevent FFP from being claimed for medical services provided to these residents. Additionally, we found that NYS improperly claimed $1,032 of FFP for inpatient psychiatric hospital services for one 22 year old resident of a private psychiatric hospital. This occurred because the FFP claims improperly continued beyond the date the beneficiary turned age 22 during her IMD stay.

As stated above, our match of the 3,553 Medicaid eligible beneficiaries' inpatient IMD stays against the inpatient file at the MMIS fiscal agent identified 386 inpatient claims. These claims were made on behalf of 305 of the 3,553 beneficiaries. Of the 386 claims, 324 were for inpatient hospital services, 56 were nursing home claims, 5 were for intermediate care facilities for the mentally retarded (ICF/MR) claims, and 1 was a child care claim.

Our review determined that 321 of the 386 claims were allowable because the services claimed were either prior to or after the beneficiaries' IMD stays (the beneficiaries were not residents of the IMDs). That is, the admission or discharge dates of the IMD stays matched either the admission or discharge dates of the inpatient claims.

For the remaining 65 (386 minus 321) inpatient claims, we obtained and reviewed supporting documentation from both the private psychiatric hospitals and the medical providers. Of the 65 claims, 45 were nursing home claims, 17 were inpatient hospital claims, and 3 were ICF/MR claims. Our review determined that 56 of the 65 claims, totaling $36,710 FFP, were improper. Of this total, 45 were nursing home claims, 8 were inpatient acute care hospital claims, and 3 were ICF/MR claims.

We found that 44 of the 45 nursing home claims and all 3 ICF/MR claims were for reserved bed days. We noted that during the periods that the beneficiaries were inpatients of the IMDs, the nursing homes and the ICF/MRs were claiming Medicaid reimbursement for reserved bed days. The NYS improperly claimed $15,508 of FFP for these reserved bed day claims. Additionally, we determined that one nursing home claim, totaling $246 of FFP, was a billing error.

An example of a reserved bed day claim included a 56 year old beneficiary who was admitted to BryLin Hospital on February 20, 1998 and discharged on March 2, 1998. The Genesee County Nursing Home claimed Medicaid reimbursement for reserved bed days from February 20, 1998 to February 28, 1998. The nursing home received Medicaid reimbursement of $1,020 for this period. The NYS improperly claimed $510 of FFP for the nursing home's claim while the beneficiary was a resident of the IMD.

The eight improper inpatient hospital claims were made during periods the IMD residents were temporarily released to an acute care hospital for medical treatment. Individuals residing in IMDs retain their IMD status when they are temporarily released to acute care hospitals for medical treatment and as such, the FFP exclusion for 21 to 64 year olds would apply. For the eight claims, NYS improperly claimed $20,956 of FFP.

The following is an example of an improper inpatient acute care hospital FFP claim. A 35 year old beneficiary was admitted to South Oaks Hospital on June 25, 1998. The patient was temporarily released for medical treatment to Brunswick Hospital (acute care hospital) on July 8, 1998 and was discharged from this hospital back to South Oaks on July 12, 1998. The beneficiary remained at South Oaks Hospital until July 15, 1998. For her four day stay, Brunswick Hospital received Medicaid reimbursement totaling $21,101. The NYS improperly claimed $10,550 of FFP for this inpatient acute care hospital claim.

Finally, we also found that NYS improperly claimed $1,032 of FFP for one 22 year old beneficiary at Rye Hospital Center. Federal regulations state that if a beneficiary is admitted to an IMD prior to their 21st birthday, then FFP can continue to be claimed for inpatient psychiatric services up to the date the beneficiary no longer needs the services (date of discharge) or age 22, whichever occurs first. We found that NYS continued to improperly claim FFP for inpatient psychiatric hospital services for this beneficiary at Rye Hospital Center after she turned age 22.

Conclusion and Recommendations

Our review determined that although controls existed to prevent FFP from being claimed for inpatient psychiatric and alcoholism services, NYS did not have controls to prevent FFP from being claimed for other types of medical services provided to 21 to 64 year old residents of private psychiatric hospitals. As a result, we estimate NYS improperly claimed $112,925 of FFP during our July 1, 1997 through September 30, 2000 audit period.

We recommend that NYS:

1. Refund $112,925 to the Federal Government for the improper FFP claims identified by our audit.

2. Establish controls to prevent FFP from being claimed for medical services provided to residents of private psychiatric hospitals between the ages of 21 to 64 years old.

3. Identify and return the improper FFP claimed subsequent to our September 30, 2000 audit cut-off date.

Auditee's Comments

In response to our draft report, NYS officials generally agreed with all of our recommendations. However, they did not agree with a portion of our recommended adjustment amount that related to reserved bed day claims made by nursing facilities for 21 to 64 year old residents of the IMDs. Reserved bed day claims were $15,508 of the $112,925 of FFP questioned by our audit. State officials indicated that the purpose of the reserved bed day policy is to provide that a patient who is temporarily hospitalized has a bed to return to in a nursing facility upon release from the institution. They contended that there is no distinction between a regular hospitalization and a psychiatric admission to an IMD. State officials believed that our disallowance would be contrary to CMS' policy on reserved bed days. The State's response is included in its entirety as APPENDIX E to this report.

OIG's Response

We disagree with NYS officials. Based on our interpretation of the Social Security Act and implementing Federal regulations, there is no exception to the IMD exclusion and, therefore, the FFP claimed by NYS for the reserved bed days would be improper. The 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 any services, including reserved bed day services, provided either in or outside the facility for IMD patients within the 21 to 64 year old age group. In our opinion, if NYS wants to pay these reserved bed day claims under its Medicaid program, it should use State funds with no FFP. Officials at CMS concurred that FFP should not have been claimed for these reserved bed days.

APPENDIX A

LIST OF THE 10 PRIVATE PSYCHIATRIC HOSPITALS INCLUDED IN OUR AUDIT

Private Psychiatric Hospital Name

Brunswick Hospital Center
BryLin Hospital
Four Winds Katonah
Four Winds Saratoga
Four Winds Syracuse
Gracie Square Hospital
Holliswood Hospital
Rye Hospital Center
South Oaks Hospital
Stony Lodge Hospital

Audit Note:

We obtained a list of 12 private psychiatric hospitals within the State from NYS OMH. We determined that Craig House Center Psychiatric Hospital (MMIS Provider Number 01579024) closed in October 2000 and that Benjamin Rush Psychiatric Hospital (MMIS Provider Number 00579199) changed ownership in May 2000 and became Four Winds Syracuse. Therefore, only the 10 private psychiatric hospitals named above were included in our audit.

SAMPLING METHODOLOGY

Audit Objective:

The objective of the review was to determine if controls were in place to effectively preclude NYS from claiming FFP under the Medicaid program for all medical and ancillary services provided to 21 to 64 year old residents of 10 private psychiatric hospitals that are IMDs.

Population:

The population was medical and ancillary claims for FFP made on behalf of Medicaid beneficiaries between the ages of 21 to 64 who were residents of private psychiatric hospitals (IMDs) during our July 1, 1997 through September 30, 2000 audit period.

Sampling Frame:

The sampling frame was a computer file containing 29,669 detailed FFP claims for 2,363 Medicaid beneficiaries between the ages of 21 to 64 years old who were residents of private psychiatric hospitals during our review period. The total Medicaid reimbursement for the 29,669 claims was $711,424.57 of which the Federal share was $356,118.93. The sampling frame was the same as the target population.

The claims were extracted from seven files maintained at the MMIS fiscal agent and then merged together. The seven files were 1) Clinic; 2) Practitioner; 3) Laboratory; 4) Pharmacy; 5) Dental; 6) Home Health; and 7) DME.

Sampling Unit:

The sampling unit was an individual Medicaid FFP claim.

Sample Design:

A stratified random sample was used to evaluate the population of Medicaid FFP claims. The first stratum consisted of 29,636 claims totaling $658,783.38 (Federal share $329,798.44) each with an FFP value ranging from $0.01 to $500.00. The second stratum consisted of all 33 claims with an FFP value greater than $500.00. These 33 claims totaled $52,641.19 (Federal share $26,320.49).

Sample Size:

A sample size of 133 claims was selected as follows:

100 items from the first stratum;
33 items from the second stratum.

Source of the Random Numbers:

The source of the random numbers was the Office of Audit Services (OAS) Statistical Sampling Software, dated October 1998. We used the Random Number Generator for our stratified sample.

Method for Selecting Sample Items:

The claims in our sampling frame were numbered sequentially. One set of 100 random numbers was selected for the first stratum and 1 set of 33 numbers was selected for the second stratum. The random numbers were correlated to the sequential numbers assigned to each claim in the sampling frame. A list of sample items was then created.

Characteristics to be Measured:

The determination as to whether an FFP claim was improper and unallowable was based on applicable Federal laws and regulations. Specifically, if the following four characteristics were met, the FFP claim under review was considered improper and unallowable:

- The beneficiary was a resident of an IMD on the service date of the FFP claim under review.
- The beneficiary was between the ages of 22 to 64 or aged 21 at admission to the IMD.
- The service date of the FFP claim under review was during the period that the beneficiary was an IMD resident.
- The provider who rendered the service was paid and NYS claimed FFP for the service rendered.

Estimation Methodology:

We used the Department of Health and Human Services, Office of Inspector General, OAS' Variables Appraisal Program in RAT-STATS to appraise the sample results. We used the lower limit at the 90 percent confidence level to estimate the cost recoveries associated with the improper claiming of FFP under the Medicaid program for medical and ancillary services for 21 to 64 year old residents of private psychiatric hospitals that are IMDs.

APPENDIX C

TYPES OF MEDICAL AND ANCILLARY SERVICES IDENTIFIED BY OUR AUDIT

TYPE OF SERVICE	NUMBER OF CLAIMS	TOTAL MEDICAID	TOTAL FEDERAL
Clinic	791	$71,261	$35,784
Dental	53	1,213	606
Dental Clinic	138	11,236	5,618
DME	33	1,122	561
Eye Care	29	294	147
Home Health	606	101,146	50,572
Laboratory	104	890	458
Managed Care	309	21,647	10,823
Pharmacy	4,356	236,620	118,550
Practitioner	22,725	232,532	116,249
Referred Ambulatory Transportation	18	519	279
	507	32,945	16,472
TOTAL	29,669	$711,425	$356,119

APPENDIX D

SAMPLE RESULTS AND PROJECTION

Results of Sample:

The results of our review of the 133 FFP Medicaid claims are as follows:

Sample Results						
Stratum Number	**Claims in Universe**	**FFP Value of Universe**	**Sample Size**	**FFP Value of Sample**	**Improper FFP Claims**	**FFP Value of Improper Claims**
1. $0.01 to $500	29,636	$329,799	100	$1,288	78	$635
2. Over $500.00	33	$26,320	33	$26,320	1	$591
Total	29,669	$356,119	133	$27,608	79	$1,226

PROJECTION OF SAMPLE RESULTS
Precision at the 90 Percent Confidence Level

Point Estimate:	$188,712
Lower Limit:	$75,183
Upper Limit:	$302,241
Precision Percent:	60.16%

STATE OF NEW YORK
DEPARTMENT OF HEALTH
Corning Tower The Governor Nelson A. Rockefeller Empire State Plaza Albany, New York 12237

Antonia C. Novello, M.D., M.P.H., Dr.P.H.
Commissioner

Dennis P. Whalen
Executive Deputy Commissioner

April 8, 2002

Timothy J. Horgan
Regional Inspector General
For Audit Services
Department of Health and Human Services
Jacob K. Javits Federal Building
26 Federal Plaza
New York, New York 10278

Dear Mr. Horgan:

Enclosed are the Department of Health's comments on the Department of Health and Human Services Office of Inspector General's draft audit report A-02-01-01006 entitled "Review of Medicaid Claims Made for Aged 21-64 Year Old Residents of Private Psychiatric Hospitals Within New York State."

Thank you for the opportunity to comment.

Sincerely,

Dennis P. Whalen
Executive Deputy Commissioner

Enclosure

Department of Health
Comments on the
DHHS – Office of Inspector General
Draft Audit Report
A-02-01-01006 Entitled
"Review of Medicaid Claims
Made for Aged 21 to 64 Year Old
Residents of Private Psychiatric Hospitals
Within New York State"

The following are the Department of Health's (DOH) comments in response to the DHHS – Office of Inspector General's (OIG) Draft Audit Report A-02-01-01006 entitled "Review of Medicaid Claims Made for Aged 21 to 64 Year Old Residents of Private Psychiatric Hospitals Within New York State".

Recommendation #1:

Refund $112,925 to the federal government for the improper FFP claims identified by our audit.

Response #1:

The federal share will be refunded after the final report is issued and the Department and Office of Mental Health concur with the audit findings.

The Department takes issue with the inclusion of reserved bed days in the calculation of alleged overpayments. The purpose of the reserved bed day policy is to provide that a patient who is temporarily hospitalized has a bed to return to in a nursing facility upon release from the institution. There is no distinction in this regard between a regular hospitalization and a psychiatric admit to an Institution for Mental Diseases (IMD). The reserved bed day payment does not represent payment for actual services provided to the patient who is absent from the nursing facility. It recognizes the costs associated with holding a bed for a limited period of time. The costs to the nursing facility for holding a bed for an IMD admit are the same as for a general hospital admit. Disallowance of these claims would frustrate the legitimate federal Medicaid reserved bed policy and create havoc for those patients who are admitted to an IMD for a temporary period and then, upon release, have no nursing facility to return to. The Department believes this disallowance to be contrary to CMS policy on reserved bed days.

Recommendation #2:

Establish controls to prevent FFP from being claimed for medical services provided to residents of private psychiatric hospitals between the ages of 21 to 64 years old.

Response #2:

We agree that no such edits exist to prevent federal participation from being claimed for other services provided while the individual is a resident of an IMD. The State will incorporate a systems edit to prevent this situation as part of the new eMedNY system which is currently under development.

Recommendation #3:

Identify and return the improper FFP claimed subsequent to our September 30, 2000 audit cut-off date.

Response #3:

A post payment audit process can be implemented for this period as mentioned in our comment to recommendation #2 above, if determined necessary and cost effective.