DEPARTMENT OF HEALTH & HUMAN SERVICES Office of Inspector General

Washington, D.C. 20201

MAY 28 2004

TO: Wynethea Walker
Acting Director, Audit Liaison Staff
Centers for Medicare & Medicaid Services

FROM: Joseph E. Vengrin
Deputy Inspector General for Audit Services

SUBJECT: Medicaid Payments for Deceased Beneficiaries in Tennessee (A-04-02-07020)

Attached is an advance copy of our final report on Medicaid payments for deceased beneficiaries in Tennessee. We will issue this report to the Tennessee Medicaid agency within 5 business days. This is one of a series of reports on payments by State Medicaid agencies for services to deceased beneficiaries. A similar audit by Ohio State auditors found that Ohio had made significant overpayments to providers for medical services dated after beneficiaries' deaths. We suggest that you share this report with the Centers for Medicare & Medicaid Services (CMS) components involved with program integrity, provider issues, and State Medicaid agency oversight, particularly the Center for Medicaid and State Operations.

Our objective was to identify any Medicaid overpayments resulting from payments to providers for medical services claimed to have been rendered after beneficiaries' dates of death. Our audit covered the period October 1, 1998 through September 30, 2001.

The Social Security Administration (SSA) maintains a comprehensive Death Master File on all reported deaths of people who have Social Security numbers. This information is available to State and Federal agencies as a way to prevent payments for services claimed to have been rendered after a beneficiary's death.

We selected a statistically valid sample of 200 beneficiaries from the 66,416 beneficiaries who were enrolled in Medicaid during our audit period and listed on SSA's Death Master File. We found that Tennessee had paid 602 claims amounting to $15,025 on behalf of 186 of the 200 deceased beneficiaries. Based on our sample results, we estimated that claims paid for services after death totaled $5 million ($3.2 million Federal share).

The State paid claims for services after death and did not recover some overpayments because it (1) did not have a formal procedure to identify deceased beneficiaries or any overpayments made on their behalf, (2) had been abiding by the Tennessee attorney general's informal opinion which limited the recovery of overpayments to no more than 12 months after beneficiaries' deaths, and (3) did not have adequate controls to recover fee-for-service payments for services dated after beneficiaries' deaths.

We recommend that the State:

- review our sampling universe to identify and refund overpayments, which we estimated at $5 million ($3.2 million Federal share), made on behalf of deceased beneficiaries

- develop a formal procedure for identifying deceased enrollees to prevent overpayments made on their behalf

- develop a policy to allow for the recovery of capitation and fee-for-service overpayments

In commenting on our draft report, Tennessee said that it had a Medicaid Eligibility Quality Control process in place and that 42 CFR § 431.865 relieved it of any liability for disallowances for errors. Additionally, the State said that it was developing a policy on the identification of deceased enrollees and subsequent recovery of claims or capitation fees paid on their behalf. However, the State did not agree to recover these payments beyond a year after death and said that its agreements with managed care organizations included a 12-month recovery period for payments made on behalf of deceased enrollees. The State said that CMS had approved these agreements.

We agree that States participating in the Medicaid Eligibility Quality Control process are generally not subject to disallowances due to eligibility. However, the standard managed care contract in effect before July 1, 2001 did not preclude recovery beyond a year and specifically cited the death of an enrollee as an event that would cause termination of enrollment. Based on these provisions, we believe that the State may recover overpayments claimed before July 1, 2001. Since we have not reviewed the individual contracts between the State and managed care organizations, we have not determined if the overpayments are recoverable. Accordingly, we are recommending that the State review our sampling universe to determine what portion of the $5 million ($3.2 million Federal share) in overpayments may be recovered.

If you have any questions or comments about this report, please do not hesitate to call me or your staff may contact George M. Reeb, Assistant Inspector General for the Centers for Medicare & Medicaid Audits, at (410) 786-7104 or Charles J. Curtis, Regional Inspector General for Audit Services, Region IV, at (404) 562-7750. Please refer to report number A-04-02-07020 in all correspondence.

Attachment

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Inspector General
Office of Audit Services

REGION IV
61 Forsyth Street, S.W., Suite 3T41
Atlanta, Georgia 30303

JUN - 2 2004

Report Number: A-04-02-07020

Mr. Manny Martins
Deputy Commissioner
Department of Finance and Administration
Bureau of TennCare
729 Church Street
Nashville, Tennessee 37247

Dear Mr. Martins:

Enclosed are two copies of a Department of Health and Human Services (HHS), Office of Inspector General (OIG) final report entitled "Medicaid Payments for Deceased Beneficiaries in Tennessee." A copy of this report will be forwarded to the action official noted below for review and any action deemed necessary.

The HHS action official named below will make the final determination on actions taken on all matters reported. We request that you respond to the HHS action official within 30 days from the date of this letter. Your response should present any comments or additional information that you believe may have a bearing on the final determination.

In accordance with the principles of the Freedom of Information Act, 5 U.S.C. § 552, as amended by Public Law 104-231, OIG reports issued to the Department's grantees and contractors are made available to members of the press and general public to the extent information contained therein is not subject to exemptions in the Act that the Department chooses to exercise (see 45 CFR part 5).

Please refer to report number A-04-02-07020 in all correspondence.

Sincerely,

Charles J. Curtis
Regional Inspector General
for Audit Services, Region IV

Enclosure

Direct Reply to HHS Action Official:

Mr. Renard Murray
Associate Regional Administrator
Centers for Medicare & Medicaid Services
Division of Medicaid and Children's Health
61 Forsyth Street, S.W., Suite 4T20
Atlanta, Georgia 30303-8909

Department of Health and Human Services

OFFICE OF INSPECTOR GENERAL

MEDICAID PAYMENTS FOR DECEASED BENEFICIARIES IN TENNESSEE

JUNE 2004
A-04-02-07020

EXECUTIVE SUMMARY

OBJECTIVE

Our objective was to identify any Medicaid overpayments resulting from payments to providers for medical services claimed to have been rendered after beneficiaries' dates of death. Our audit covered the period October 1, 1998 through September 30, 2001.

SUMMARY OF FINDINGS

We found that Tennessee had made Medicaid payments on behalf of beneficiaries after their deaths. We selected a statistically valid sample of 200 beneficiaries from the 66,416 beneficiaries who were enrolled in Medicaid during our audit period and deceased according to the Social Security Administration's (SSA) Death Master File. We found that Tennessee had paid 602 claims amounting to $15,025 on behalf of 186 of the 200 deceased beneficiaries. Based on our sample results, we estimated that claims paid for services after death totaled $5 million ($3.2 million Federal share).

The State paid claims for services after death and did not recover some overpayments because it (1) did not have a formal procedure to identify deceased beneficiaries or any overpayments made on their behalf, (2) had been abiding by the Tennessee attorney general's informal opinion which limited the recovery of overpayments to no more than 12 months after beneficiaries' deaths, and (3) did not have adequate controls to recover fee-for-service payments for services dated after beneficiaries' deaths.

RECOMMENDATIONS

We recommend that the State:

- review our sampling universe to identify and recover overpayments, which we estimated at $5 million ($3.2 million Federal share), made on behalf of deceased beneficiaries
- develop a formal procedure for identifying deceased enrollees to prevent overpayments made on their behalf
- develop a policy to allow for the recovery of capitation and fee-for-service overpayments

STATE'S COMMENTS

In commenting on our draft report, Tennessee stated that it had a Medicaid Eligibility Quality Control process in place and that 42 CFR § 431.865 relieved it of any liability for disallowances for errors. Additionally, the State said that it was developing a policy on the identification of deceased enrollees and subsequent recovery of claims or capitation fees paid on their behalf. However, the State did not agree to recover these payments beyond a year after death and said that its agreements with managed care organizations included a 12-month recovery period for payments made on behalf of deceased enrollees. The State said that the Centers for Medicare &

Medicaid Services (CMS) had approved these agreements. The complete text of the State's comments is included as Appendix C.

OFFICE OF INSPECTOR GENERAL RESPONSE

We agree that States participating in the Medicaid Eligibility Quality Control process are generally not subject to disallowances due to eligibility. However, the standard managed care contract in effect before July 1, 2001 did not preclude recovery beyond a year and specifically cited the death of an enrollee as an event that would cause termination of enrollment. Since we have not reviewed the individual contracts between the State and managed care organizations, we have not determined if the overpayments are recoverable. Accordingly, we are recommending that the State review our sampling universe to determine what portion of the $5 million ($3.2 million Federal share) in overpayments may be recovered.

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INTRODUCTION

BACKGROUND

Medicaid (Title XIX of the Social Security Act) is a jointly funded Federal-State health program for eligible low-income and needy individuals. It covers approximately 41 million individuals, including children; the aged, blind, and/or disabled; and people who meet the criteria for receiving federally assisted income maintenance payments. CMS provides Federal oversight of the Medicaid program. In Tennessee, the Department of Finance and Administration is the State agency responsible for administering the State's Medicaid plan. During Tennessee's fiscal years (FY) 1999 through 2001, Medicaid expenditures totaled $13.9 billion.

To provide medical services to State enrollees, Tennessee's Department of Finance and Administration and Department of Mental Health and Mental Retardation contract with managed care organizations, licensed health maintenance organizations, and preferred provider organizations. They also contract with behavioral health organizations, a type of managed care organization, to deliver mental health and substance abuse services. Payment to these providers is made monthly based on an established capitation rate. A capitation payment is a fee paid by the State to the provider for each enrollee for the provision of medical services, whether or not the services are rendered and without regard to the number of services rendered during the payment period. These providers also agree to accept amounts, paid pursuant to an approved agreement, for fees over and above the capitation rate. These fees are commonly referred to as fee-for-service payments.

To administer its programs, SSA maintains comprehensive death record information by purchasing death certificate information from State governments and obtaining death notifications from funeral homes and from friends and family of the deceased. All reported deaths of people who have Social Security numbers are routinely added to SSA's Death Master File. This information is available to State and Federal agencies as a way to prevent payments for services claimed to have been rendered after a beneficiary's death.

OBJECTIVE, SCOPE, AND METHODOLOGY

Objective

Our objective was to identify any Medicaid overpayments resulting from payments to providers for medical services claimed to have been rendered after beneficiaries' dates of death.

Scope

Our audit covered the period October 1, 1998 through September 30, 2001. Tennessee identified a total of 1,893,125 beneficiaries as being enrolled in the Medicaid program during this period.

We did not review the overall internal control structure of the State's Medicaid program. Our internal control review was limited to obtaining an understanding of the State's process for identifying payments for services to deceased individuals and recovering the overpayments.

We also did not review the individual contracts between the State and managed care organizations.

Methodology

We matched the State's list of 1,893,125 Medicaid enrollees against SSA's Death Master File. The resulting database consisted of 66,416 beneficiaries who were enrolled in Medicaid during the audit period and died before October 1, 2001. Next, we selected a statistically valid sample of 200 beneficiaries from the 66,416 beneficiaries. We requested that the State provide all paid claims to managed care and behavioral health organizations on behalf of these beneficiaries.

The 7,592 capitation claims that we received pertained to 195 of the 200 beneficiaries in our sample. Of the five beneficiaries for whom no claims were received, three had dates of death before the audit period. The remaining two had dates of death within our audit period but had no claims attributed to them. We reduced the 7,592 capitation claims to 1,352 claims, credits, voids, or adjustments that fell from the month of the beneficiary's death through the end of our audit period. We prorated the error amounts for those claims for which a beneficiary died during a month when the claim in error occurred.

We also obtained 13,514 fee-for-service claims for the 200 beneficiaries. We reduced these claims to 103 claims that fell from the month of the beneficiary's death through the end of our audit period.

Based on the above analysis, we projected the results of our sample to the 66,416 beneficiaries who were enrolled in Medicaid during our audit period and who were listed on SSA's Death Master File. For details on our sampling methodology, see Appendix A. For details on the results of our sample and the projection, see Appendix B.

In addition, we reviewed findings of State auditors for the years ended June 30, 1998 through June 30, 2001.

We performed fieldwork at State offices in Nashville, TN, from August 2002 through April 2003. On May 16, 2003, we issued a draft of this report to Tennessee for comment. On June 16, 2003, we granted the State's request for a 30-day extension to provide written comments. We also provided the State with documents for use in preparing its written comments. We received the State's comments dated July 25, 2003.

We conducted our audit in accordance with generally accepted government auditing standards.

FINDINGS AND RECOMMENDATIONS

Our audit disclosed that Tennessee had made payments on behalf of Medicaid beneficiaries for services claimed to have been rendered after their deaths. Specifically, the State paid 602 claims on behalf of 186 of the 200 deceased beneficiaries sampled. Based on our sample results, we estimated that Medicaid overpayments totaled $5 million ($3.2 million Federal share).

These overpayments occurred and were not recovered because the State (1) did not have a formal procedure to identify deceased beneficiaries or any overpayments made on their behalf, (2) had been abiding by the Tennessee attorney general's informal opinion which limited the recovery of overpayments to no more than 12 months after beneficiaries' deaths, and (3) did not have adequate controls to identify and recover fee-for-service payments for services dated after beneficiaries' deaths.

The law governing recovery of overpayments, 42 U.S.C. § 1396b(d)(2)(C), states:

> For purposes of this subsection, when an overpayment is discovered, which was made by a State to a person or other entity, the State shall have a period of 60 days in which to recover or attempt to recover such overpayment before adjustment is made in the Federal payment to such State on account of such overpayment. Except as otherwise provided in subparagraph (D), the adjustment in the Federal payment shall be made at the end of the 60 days, whether or not recovery was made.

OVERPAYMENTS

Of the 1,455 claims sampled (1,352 capitation and 103 fee-for-service), 602 were in error, as detailed in the table below. Tennessee had not recovered the $15,025 in resulting overpayments as of the end of our audit period. Since we did not examine the individual contracts between the State and managed care organizations, we could not determine if these erroneous payments were recoverable.

Erroneous Sampled Claims

Type of Claim	Number of Claims	Overpayment
Capitation (behavioral health)	540	$ 8,829
Capitation (managed care)	40	5,955
Fee-for-service	22	241
Total	**602**	**$15,025**

Our analysis of the 602 erroneous claims, based on the time lapse between the beneficiary's death and the beginning date of service on the claim, found that 359 claims occurred within 30 days of the beneficiary's death. The remaining 243 claims occurred more than 30 days after the beneficiary's death; of these, 76 claims occurred more than a year after the beneficiary's death.

Based on our sample results, we estimated that Tennessee paid claims on behalf of 61,767 beneficiaries after their deaths. As a result, Medicaid overpayments totaled an estimated $5 million ($3.2 million Federal share).

CAUSES OF ERRONEOUS CLAIMS AND UNRECOVERED OVERPAYMENTS

Lack of Formal Procedure

Tennessee did not have a formal procedure for identifying deceased beneficiaries or any overpayments made on their behalf. Neither the Tennessee State plan nor the Tennessee Medicaid Manual included policies and/or procedures on payment adjustments for deceased beneficiaries. Although the FY 2001 single audit by State auditors identified the lack of written procedures for identifying deceased beneficiaries, State officials were unable to provide evidence that they had developed formal procedures since that audit.

Twelve-Month Limitation on Overpayment Recovery

After State auditors completed the FY 2001 single audit, the State asked the Tennessee Attorney General's Office for clarification on recovering overpayments made on behalf of deceased beneficiaries. In an informal opinion based on language in the State contractor risk agreements and amendments to those agreements, the attorney general stated that "it may not have been contemplated that any issue would arise regarding negative retroactive adjustments for deceased enrollees beyond a 12-month limitation period because such information is usually provided within a short period following an enrollee's death." Therefore, "retroactive adjustments greater than 12 months for deceased State enrollees should not be made for periods prior to July 2001."

This informal opinion asserts that recovery of payments for deceased enrollees more than 12 months after death should not be necessary due to the timely receipt of death information. However, there is no statutory basis for this limitation, and we note that 76 of the erroneous claims in our sample occurred more than a year after the beneficiaries' deaths. Without a specific statutory requirement barring recovery, the Federal share of these payments should be refunded.

Inadequate Controls to Recover Fee-for-Service Payments

Tennessee lacked formal procedures for identifying and recovering fee-for-service payments for deceased beneficiaries. The State's fee-for-service recovery efforts were informal and manual.

State auditors noted in their last three single audits (1999 through 2001) that Tennessee did not have adequate controls to recover fee-for-service payments made after enrollees' deaths. The State auditors found that, as a result, such payments were not recovered. Although the State partially agreed to review procedures for recovering these fee-for-service payments, it had not made any changes as of the 2001 single audit.

RECOMMENDATIONS

We recommend that the State:

- review our sampling universe to identify and recover overpayments, which we estimated at $5 million ($3.2 million Federal share), made on behalf of deceased beneficiaries

- develop a formal procedure for identifying deceased enrollees to prevent overpayments made on their behalf

- develop a policy to allow for the recovery of capitation and fee-for-service overpayments

STATE'S COMMENTS

The State's complete response is included as Appendix C. In summary, Tennessee stated that it participated in the Medicaid Eligibility Quality Control process and was therefore not responsible for any liabilities resulting from overpayments. The State concurred with our recommendation to develop a formal matching procedure and said that it was developing a policy for identifying deceased enrollees and recovering the overpayments made on their behalf. However, Tennessee did not agree to recover these payments beyond a year after death. Tennessee stated that the language in its contractor risk agreements with managed care organizations addressed the 12-month limitation on recovery of payments. According to the State, CMS had approved the agreements in advance.

OFFICE OF INSPECTOR GENERAL'S RESPONSE

We agree that States participating in pilot programs under the Medicaid Eligibility Quality Control process are generally not subject to disallowances due to eligibility. However, the standard managed care contract in effect before July 1, 2001 did not preclude recovery beyond a year. Also, this contract specifically cited the death of an enrollee as an event that would cause termination of enrollment. Since we have not reviewed the individual contracts between the State and managed care organizations, we have not determined if the overpayments are recoverable. Accordingly, we are recommending that the State review our sampling universe to determine what portion of the $5 million ($3.2 million Federal share) in overpayments may be recovered.

APPENDICES

APPENDIX A

SAMPLING METHODOLOGY

POPULATION

The population consisted of 66,416 beneficiaries who were enrolled in Medicaid during our audit period (October 1, 1998 through September 30, 2001) and who were listed on SSA's Death Master File.

SAMPLING UNIT

The sampling unit was a beneficiary who was enrolled in Medicaid and for whom SSA showed a date of death.

SAMPLE DESIGN

A simple random sample was used.

SAMPLE SIZE

We selected 200 beneficiaries from the population.

ESTIMATION METHODOLOGY

Using the Department of Health and Human Services, Office of Inspector General, Office of Audit Services RAT-STATS Variable Appraisal Program, we estimated the dollar amount of erroneously paid claims for the universe as a whole.

Using the RAT-STATS Attribute Appraisal Program, we estimated the number of beneficiaries for whom claims were paid after death.

APPENDIX B

SAMPLE RESULTS AND PROJECTIONS

SAMPLE RESULTS

Sample Size	Value of Sample	Number of Nonzero Errors	Value of Errors
200	$600,800.26	186	$15,025.15

VARIABLE PROJECTIONS

Point Estimate		$4,989,552
90-Percent Confidence Interval:		
Lower Limit	$2,803,264	
Upper Limit	$7,175,840	

ATTRIBUTES PROJECTION

We also used our random sample of 200 beneficiaries to project the percentage and number of beneficiaries for whom claims were paid after death. We used the RAT-STATS Attribute Appraisal Program for unrestricted samples to project the percentage and number of beneficiaries with errors. The results of these projections are presented below:

Sample Claims in Error	186
Point Estimate Percentage	93.000%
Point Estimate Number	61,767
90-Percent Confidence Interval:	
Lower Limit Percentage	89.280%
Lower Limit Number	59,296
Upper Limit Percentage	95.715%
Upper Limit Number	63,570

State of Tennessee
Department of Finance and Administration
Bureau of TennCare
729 Church Street
Nashville, TN 37247-0492

Phil Bredesen
Governor

M. D. Goetz, Jr.
Commissioner

July 25, 2003

Mr. Charles Curtis
Regional Inspector General for Audit Services, Region IV
Department of Health and Human Services
61 Forsyth Street, S.W., Suite 3T41
Atlanta, Georgia 30303

Report Number A-04-02-07020

Dear Mr. Curtis:

Attached is our response to the above referenced audit report. We have provided a response to each recommendation included in the report.

We appreciate the additional time you allowed us to prepare this response and the assistance provided by you and your staff. Please contact me if you need any additional information regarding this matter.

Sincerely,

Keith Gaither,
Chief Financial Officer

cc: Andrew A. Funtal, DHHS/OIG
M. D. Goetz, Jr., Commissioner
Manny Martins, Deputy Commissioner, TennCare

Bureau of TennCare
Response to Draft Audit Report Dated May 2003
Issued by the Department of Health and Human Services
Office of Inspector General
Payments for Services to Deceased Recipients in Tennessee

OIG Recommendation: Develop a formal procedure for identifying deceased enrollees and recover the overpayments made on behalf of deceased enrollees.

TennCare Response: The Bureau is currently developing an overall policy regarding the identification of deceased enrollees and the subsequent recovery of claims or capitation fees paid on behalf of these enrollees. We anticipate this policy will be completed by September 2003. We have had procedures in place for identification and recovery but have recently implemented additional procedures. In the past, we have used death data from the State's Vital Records Office to identify enrollees who died. Recently we began running a match against the Social Security Administration's Death Master File. We believe this process will improve our ability to identify deceased enrollees.

OIG Recommendation: Recover the FFS payments made on behalf of deceased enrollees, and establish internal controls to continue doing so on a monthly basis.

TennCare Response: We are reviewing our controls and payments made on behalf of deceased enrollees and take appropriate action.

OIG Recommendation: Recover the payments made on behalf of deceased enrollees regardless of the time lapse between the date of death and the overpayment.

TennCare Response: We do not concur. The contractor risk agreement with the managed care organizations include language regarding a twelve-month period of recovery of payments made on behalf of deceased enrollees. These agreements were approved in advance by the Centers for Medicare and Medicaid Services.

OIG Recommendation: Recover and refund $15,025.15 (Federal share $9,518.56) from the providers who received payments for services provided after the recipients; death to the Medicaid program for overpayments identified through our review.

TennCare Response: We have not had sufficient time to review the test results to determine if we concur with the amounts and projections cited in this report. We are reviewing that data now. It should be noted that the Bureau of TennCare has a Medicaid Eligibility Quality Control (MEQC) process in place. As provided in CFR

42-431.865 our position is that we are relieved of any liability for disallowances for errors.

OIG Recommendation: Review the balance of the sampling universe (October 1, 1998 through September 30, 2001) to identify and refund any additional overpayments. We estimate the total overpayments to be $4,989,552 (Federal share $3,159,883).

TennCare Response: As noted above, we have not had sufficient time to review the test results to determine if we concur with the amount and projections cited in this report. We are reviewing that data now. It should be noted that the Bureau of TennCare has a Medicaid Eligibility Quality Control (MEQC) process in place. As provided in CFR 42-431.865 our position is that we are relieved of any liability for disallowances for errors.