DEPARTMENT OF HEALTH & HUMAN SERVICES Office of Inspector General

Washington, D.C. 20201

DEC 30 2003

TO: Dennis G. Smith
Acting Administrator
Centers for Medicare & Medicaid Services

FROM: Dara Corrigan
Acting Principal Deputy Inspector General

SUBJECT: Review of Illinois Medicaid School-Based Services for the Period July 1, 2000 Through June 30, 2001 (A-05-02-00049)

We are alerting you to the issuance of the subject audit report within 5 business days from the date of this memorandum. A copy of the report is attached. This is one of a series of reports on costs claimed by States for Medicaid school-based health services. We are conducting these audits in response to concerns raised by officials of the Centers for Medicare & Medicaid Services (CMS) and the Office of Management and Budget.

Our objectives were to determine whether (1) local education agencies and cooperatives appropriately furnished, documented, and billed school-based services claimed for Federal Medicaid reimbursement and (2) Illinois appropriately claimed Federal reimbursement for the services.

In 1988, section 1903(c) of the Social Security Act was amended to allow Medicaid coverage of health-related services for children under the Individuals with Disabilities Education Act. The Individuals with Disabilities Education Act requires States to provide appropriate school-based health services to children with disabilities or special needs. Under section 1903(c) of the Social Security Act, Medicaid covers such services if they are included in a child's individual education plan or an individual family service plan.

A State may receive Medicaid funding for services included in a child's plan or family plan as long as (1) the services are listed in section 1905(a) of the Social Security Act and are medically necessary; (2) all Federal and State regulations are followed, including those for provider qualifications; and (3) the services are included in the State plan or are available under the Early and Periodic Screening, Diagnostic and Treatment Medicaid benefit. Covered services may include, but are not limited to, physical therapy, occupational therapy, speech pathology/therapy, psychological counseling, nursing, and transportation services.

Based on a statistically valid sample of Illinois claims for school-based health services during the year ended June 30, 2001, we estimate that at least $6,067,669 of a total $37,501,089 (Federal share) of payments did not qualify for Medicaid reimbursement.

Local education agencies improperly included claims for, among other things, services not included in a child's plan or family plan; undocumented or insufficiently documented services; services on dates when school was not in session or the student was absent; and speech, physical, or occupational therapy for which referral or prescription information was unavailable or inadequate. We attributed these conditions to the local education agencies' misinterpretation of the State Medicaid agency's payment criteria, ineffective billing controls, and clerical mistakes.

Additionally, Illinois improperly included claims for payments to local education agencies that were not limited to the lower of billed cost or the state-wide maximum payment ceiling because it had not fully implemented computer-based edits that would have appropriately limited these payments. Illinois also claimed developmental services that were neither furnished under a child's plan or a family plan nor provided to develop such a plan. Contrary to section 1903(c) of the Social Security Act, Illinois policy allowed local education agencies to claim such services for Medicaid reimbursement.

We recommended that Illinois:

- refund $6,067,669 to CMS;
- issue a provider notice reinforcing the need for complete and accurate compliance with Illinois policy (except that for developmental services, as noted below) on claims for school-based health services;
- fully implement the postpayment edit to limit payments to the lower of billed costs or the state-wide ceilings; and
- revise its policy to no longer allow local education agencies to claim costs for developmental services that are not furnished under a child's plan or a family plan.

Illinois agreed to issue a provider notice reinforcing the need for compliance with its policy and to limit payments to the lower of billed costs or the state-wide ceiling. The State advised us that it had begun to reprice claims for school-based services and appropriately limit payments. Illinois did not agree to revise its policy to no longer allow local education agencies to claim costs for developmental services that are not furnished under a child's plan or a family plan. The State also contended that our sampling was seriously flawed and that it was unable to accept the repayment projection.

We continue to believe that section 1903(c) of the Social Security Act and CMS guidance do not permit reimbursement for developmental services that are not included in a child's plan or a family plan. As to our methodology, we used commonly accepted statistical sampling methods to select and appraise the stratified random sample. We based the overpayment estimate on the lower limit of the confidence interval.

Our report summarizes Illinois's comments and our response and includes the State's comments, in their entirety, as an Appendix.

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 Paul Swanson, Regional Inspector General for Audit Services, Region V, at (312) 353-2618.

Attachment

DEPARTMENT OF HEALTH AND HUMAN SERVICES
REGION V
105 W. ADAMS ST
CHICAGO, ILLINOIS 60603-6201

OFFICE OF
INSPECTOR GENERAL

DEC 31 2003

Report Number: A-05-02-00049

Mr. Barry S. Maram
Director
Illinois Department of Public Aid
201 South Grand Avenue East
Springfield, Illinois 62763-0001

Dear Mr. Maram:

Enclosed are two copies of the Department of Health and Human Services (HHS), Office of Inspector General (OIG) final report entitled "Review of Illinois Medicaid School-Based Services for the Period July 1, 2000 through June 30, 2001." A copy of this report will be forwarded to the HHS action official noted below for review and any action deemed necessary.

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

In accordance with the principles of the Freedom of Information Act, 5 U.S.C. § 552, as amended by Public Law 104-231, OIG reports issued to the Department's grantees and contractors are made available to members of the press and general public to the extent information contained therein is not subject to exemptions in the Act which the Department chooses to exercise (see 45 CFR part 5). As such, within 10 business days after the final report is issued, it will be posted on the Internet at http://oig.hhs.gov.

To facilitate identification, please refer to report number A-05-02-00049 in all correspondence.

Sincerely,

Paul Swanson

Paul Swanson
Regional Inspector General
for Audit Services

Enclosures – as stated

Direct Reply to HHS Action Official:

Ms. Cheryl Harris
Associate Regional Administrator
Division of Medicaid and Children's Health
Centers for Medicare & Medicaid Services
Department of Health and Human Services
233 North Michigan Avenue, Suite 600
Chicago, Illinois 60601-5519

Department of Health and Human Services

OFFICE OF
INSPECTOR GENERAL

REVIEW OF ILLINOIS MEDICAID SCHOOL-BASED SERVICES FOR THE PERIOD JULY 1, 2000 THROUGH JUNE 30, 2001

DECEMBER 2003
A-05-02-00049

EXECUTIVE SUMMARY

OBJECTIVES

Our objectives were to determine whether local education agencies and cooperatives appropriately furnished, documented, and billed school-based services claimed for Federal Medicaid reimbursement and whether Illinois appropriately claimed Federal funding for the services. In Illinois, the Medicaid program is administered by the Illinois Department of Public Aid; at the Federal level, it is administered by the Centers for Medicare & Medicaid Services (CMS).

SUMMARY OF FINDINGS

Based on a statistically valid sample, we estimated that the Federal share of overpayments for Illinois school-based services during the year ending June 30, 2001 was at least $6,067,669 of the total $37,501,089 claimed. From our sample of 350 student service months with Federal funds totaling $48,201, we identified 246 errors, resulting in overpayments of $7,032. Some sampled months contained more than one error. The errors, representing payments that did not meet Federal and State reimbursement requirements, are identified below by the conditions found at the local education agencies and at the State level.

Conditions at Local Education Agencies

1. Services were not included in the child's individual education plan or the individual family service plan (54 errors totaling $1,865).

2. Services were undocumented or insufficiently documented (16 errors totaling $1,698).

3. Services were billed for dates when school was not in session or the student was absent (59 errors totaling $1,481).

4. Referral or prescription information for speech, physical, or occupational therapy services was unavailable or inadequate (six errors totaling $366).

5. Services were incorrectly billed (16 errors totaling $142).

6. A service was provided by a clinician with an outdated credential (one error for $10).

We attributed these conditions to the local education agencies' misinterpretation of school-based services criteria, ineffective billing controls, and clerical mistakes.

Conditions at the State Level

7. Payments by the Illinois Department of Public Aid to local education agencies were not limited to the lower of billed cost or the state-wide maximum payment ceiling, as required (79 errors totaling $1,142).

8. Developmental services were not furnished under a child's plan/family plan (15 errors totaling $328).

We noted that Illinois had not fully implemented a systems edit that would have limited reimbursement to the lower of the billed cost or the state-wide ceiling. Concerning developmental services, Illinois policy allowed local education agencies to claim these services even when they were not included in the child's plan/family plan. This policy was contrary to requirements of section 1903(c) of the Social Security Act.

RECOMMENDATIONS

We recommend that Illinois:

- repay to CMS $6,067,669 in overpayments for school-based services not provided or billed in accordance with Federal and State Medicaid requirements;

- issue a provider notice reinforcing the need for complete and accurate compliance with Illinois policy (except that for developmental services, as noted below) on claims for school-based health services;

- fully implement the postpayment edit to limit payments to the lower of billed costs or the state-wide ceiling; and

- revise its policy to no longer allow local education agencies to claim costs for developmental services that are not furnished under a child's plan/family plan.

ILLINOIS COMMENTS

Illinois's comments are summarized at the end of the "Findings and Recommendations" section of the report and are presented in their entirety as Appendix C.

In brief, Illinois agreed to issue a provider notice reinforcing the need for compliance with its policy and to limit payments to the lower of billed costs or the state-wide ceiling. The State advised us that it had begun to reprice claims for school-based services and appropriately limit payments. Illinois did not agree to revise its policy to no longer allow local education agencies to claim costs for developmental services that are not furnished under a child's plan or a family plan. The State also contended that our sampling was seriously flawed and that it was unable to accept the repayment projection.

OFFICE OF INSPECTOR GENERAL RESPONSE

We continue to believe that section 1903(c) of the Social Security Act and CMS guidance do not permit reimbursement for developmental services that are not included in a child's plan or a family plan. As to our methodology, we used commonly accepted statistical sampling methods to select and appraise the stratified random sample. We based the overpayment estimate on the lower limit of the confidence interval.

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INTRODUCTION

BACKGROUND

Nationwide School-Based Services

Title XIX of the Social Security Act established the Medicaid program in 1965 to provide medical care to pregnant women; children; and needy individuals who are aged, blind, or disabled. Medicaid is a jointly funded Federal and State entitlement program administered by the States. Section 1903(c) of the Social Security Act was amended in 1988 to allow Medicaid coverage of health-related services for children under the Individuals with Disabilities Education Act. The Individuals with Disabilities Education Act requires States to provide appropriate special education and related services (school-based health services) to children with disabilities or special needs.

Each State details the scope of its Medicaid program in a State plan subject to review by the Centers for Medicare & Medicaid Services (CMS) to ensure compliance with Federal requirements. States generally claim Federal funding for school-based services under the categories of administration or medical assistance payments.

Illinois School-Based Services

Article 14 of the Illinois School Code requires that all disabled children between the ages of 3 and 21 receive a free and appropriate education. Pursuant to the Individuals with Disabilities Education Act and article 14, local education agencies and cooperatives are responsible for furnishing special education and related services as defined in a child's individual education plan or individual family service plan.

In 1991, Illinois began claiming Federal funding for therapy services provided to children enrolled in special education programs at various local education agencies. During the State fiscal year (SFY) ended June 30, 2001, an interagency agreement between the Illinois Department of Public Aid and the Illinois State Board of Education allowed them to jointly administer school-based services. The Board of Education implemented provider agreements with local education agencies, acted as the intermediary between the local agencies and the Department of Public Aid, and provided technical assistance to the local agencies. On July 1, 2001, the Department of Public Aid assumed the Board of Education's responsibility for the payment process associated with school-based services and is currently responsible for general program oversight.

Allowable school-based services are established in the approved Illinois Medicaid State plan and are paid at the lower of cost or the state-wide maximum payment ceiling. Illinois received about $37 million in Federal funds for school-based services provided during SFY 2001.

Law and Policy

Section 1903(c) of the Social Security Act requires the Secretary to pay for services furnished to children with disabilities, covered under the Individuals with Disabilities Education Act, and supported by a child's plan or a family plan. A comprehensive discussion of section 1903(c) and other school-based policies are provided in the CMS guidance entitled "Medicaid and School Health: A Technical Assistance Guide," dated August 1997.

To obtain reimbursement for school-based services, a provider must have an agreement with the State delineating the responsibilities of all parties. In addition, the Illinois Department of Public Aid defines and explains its Medicaid school-based services policies and procedures through periodic provider notices. For program guidance during SFY 2001, local education agencies relied on both provider notices and the "Handbook for Providers of Medicaid Services," chapter 100. As a supplement to chapter 100, the Department of Public Aid subsequently developed chapter U-200, which includes information from previously issued provider notices.

OBJECTIVES, SCOPE, AND METHODOLOGY

Objectives

Our objectives were to determine whether local education agencies and cooperatives appropriately furnished, documented, and billed school-based services claimed for Federal Medicaid reimbursement and whether Illinois appropriately claimed Federal funding for the services.

Scope

Our audit covered Illinois Medicaid school-based services provided during SFY 2001.

Our review of internal controls was limited to discussions with officials of the Illinois Department of Public Aid and local education agencies to obtain an overall understanding of the policies and procedures governing school-based services in Illinois.

Methodology

We evaluated the process used by Illinois to calculate its SFY 2001 state-wide school-based services maximum payment ceiling and assessed the overall accuracy and reasonableness of the ceiling rate methodology.

We used a statistically valid sample with four strata. From our sample of 350 student months, we randomly selected 100 student months from each of the first 3 strata (Chicago Public Schools; Exceptional Children Have Opportunities, a local education agency cooperative serving children with special needs; and Rockford Public Schools) and 50 student months from the rest-of-the-State stratum. The first three strata represented the largest three local education agencies in terms of Medicaid funding. Additional sampling information is included in Appendix A. Appendix B lists the local education agencies included in the rest of the State.

In reviewing the selected months, we compared paid school-based services claim data provided by the Illinois Department of Public Aid with the documentation supporting the paid services at the local education agencies. Specifically, we determined whether the reviewed services were:

- defined in the child's plan/family plan or provided to develop a subsequently established child's plan/family plan;
- provided on days when school was in session and the student was present;
- accurately billed and adequately documented;
- appropriately referred or prescribed in the case of speech, occupational, and physical therapy services; and
- furnished by qualified clinicians.

We performed fieldwork at the Department of Public Aid in Springfield and at the administrative offices of the Chicago Public Schools, Exceptional Children Have Opportunities, and the Rockford Public Schools in Chicago, South Holland, and Rockford, respectively. Information provided by local education agencies in the rest-of-the-State stratum was reviewed in Springfield.

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

FINDINGS AND RECOMMENDATIONS

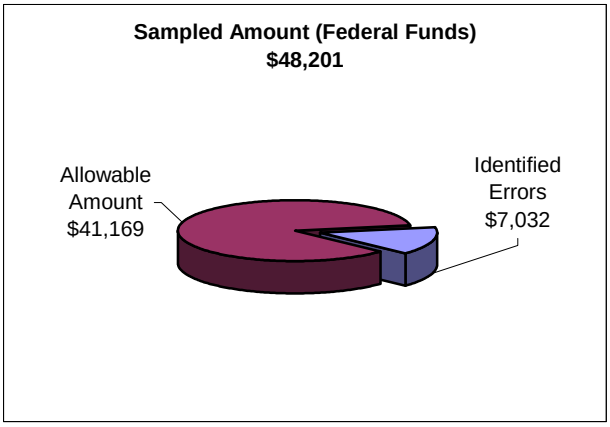
Based on a statistical projection to the population of paid student service months with service dates during SFY 2001, we estimate that the Federal share of Medicaid overpayments for Illinois school-based services was at least $6,067,669 of the $37,501,089 claimed. Our projection is based on a review of a statistically valid sample of 350 student service months consisting of Federal payments totaling $48,201. We identified 246 errors with $7,032 in Federal overpayments within the sample. Some of the selected months contained multiple errors.

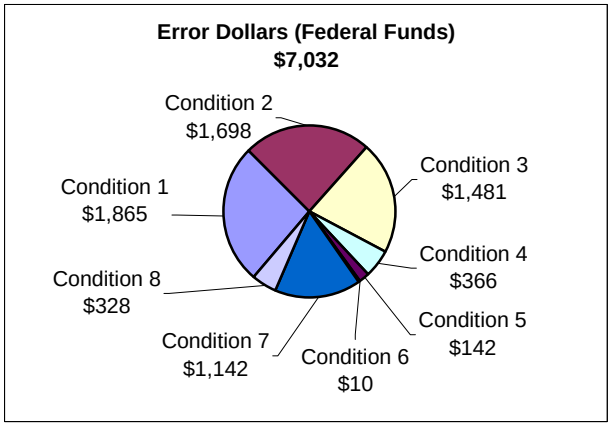
We attribute the overpayments to six conditions at the local education agencies (conditions 1 through 6) and two conditions at the State level (conditions 7 and 8):

- Condition 1: services were not included in a child's plan/family plan.
- Condition 2: services were undocumented or insufficiently documented.
- Condition 3: services were billed for dates when school was not in session or the student was absent.
- Condition 4: referral or prescription information for speech, physical, or occupational therapy services was unavailable or inadequate.

- Condition 5: services were incorrectly billed.
- Condition 6: a service was provided by a clinician with an outdated credential.
- Condition 7: payments were not limited to the lower of billed cost or the state-wide ceiling.
- Condition 8: developmental services were not furnished under a child's plan/family plan.

The results of our sample review are graphically depicted below:





CONDITIONS AT LOCAL EDUCATION AGENCIES

The conditions discussed below were attributable, in our opinion, to the local education agencies' misinterpretation of State Medicaid school-based requirements, ineffective billing controls, and clerical mistakes.

Services Not Included in a Child's Plan/Family Plan (Condition 1)

State Medicaid Provider Notice 00-3 stated: ". . . . the only services eligible for program reimbursement through this program are those medical services that are necessary and appropriate for the special education needs defined in a child's Individualized Education Program or Individualized Family Service Plan . . . ."

We identified overpayments totaling $1,865 (54 errors) for services that were not included in the child's plan/family plan. The services primarily included social work, nursing, and transportation services. We did not take exception to instances in which defined services were provided at levels exceeding the scope of coverage authorized in the child's plan/family plan. (Developmental costs not covered under a child's plan/family plan are discussed under condition 8 and are not included under this condition.)

Undocumented Services (Condition 2)

Agreements signed by providers and the State required providers to maintain adequate documentation for State and Federal audit purposes. In addition, the "Illinois Handbook for Providers of Medical Services" required that this documentation be maintained for not less than 3 years.

We identified $1,698 (16 errors) in overpayments for services that were either unsupported or inadequately supported. In these cases, the local education agencies did not retain, or were unable to locate, critical documentation, such as the child's plan/family plan, supporting the provision of the claimed services.

School Not in Session or Student Absent (Condition 3)

State Medicaid Provider Notice 00-3 stated that any payments made by the Illinois Department of Public Aid or the Illinois State Board of Education for services that are not covered are subject to recoupment.

Medicaid overpayments of $1,481 (59 errors) were identified for services billed for dates when school was not in session or the student was designated absent. Specifically, 17 errors were for service dates when school was not in session, and the remaining 42 errors were for service dates when students were absent. As a result of discussions with Department of Public Aid officials, we took reasonable measures to detect, and not count as errors, situations in which students may have been designated as absent from class while actually receiving services at another location.

Inappropriate Referral or Prescription Information (Condition 4)

State Medicaid Provider Notice 00-3 required local education agencies to maintain appropriate referral or prescription information for speech, physical, and occupational therapy services.

We identified overpayments totaling $366 (six errors) for therapy services that lacked the appropriate referral or prescription information. The required information was either unavailable for review or lacked the appropriate referral signatures. When the referral information was unavailable, we were generally unable to determine whether the local education agencies failed to retain the supporting documentation or never obtained it.

Incorrectly Billed Services (Condition 5)

State Medicaid Provider Notice 01-4 stated that providers should bill at actual cost. In addition, Provider Notice 00-3 stated that payments for services that were not covered or properly documented were subject to recovery.

We found $142 (16 errors) in overpayments for services that were incorrectly billed through apparent error or oversight. Most of these errors occurred when services were billed above cost. The remaining errors occurred when providers mistakenly claimed costs on dates when services were apparently not provided, relied on inaccurate data for billing purposes, or incorrectly prepared billing sheets.

Outdated Provider Credential (Condition 6)

State Medicaid Provider Notice 01-4 read, in part, "Social work services are provided by an individual with a . . . TYPE 73 certificate endorsed in school social work . . . ."

We identified an isolated overpayment of $10 (one error) for a service furnished by a clinician with an outdated provider qualification. The social worker's "Type 73" certificate had expired before the service was provided.

CONDITIONS AT STATE LEVEL

Payments Not Limited to Lower of Billed Cost or State-Wide Ceiling (Condition 7)

State Medicaid Provider Notice 01-03 established the state-wide maximum payment ceiling for SFY 2001, while Provider Notice 01-04 further required that reimbursement be limited to the lower of the actual cost or the established state-wide maximum allowable rate.

We found overpayments of $1,142 (79 errors) resulting from provider charges that were not reduced to the lower of the billed cost or the state-wide maximum payment ceiling. During the review period, the Department of Public Aid relied on a postpayment computer edit designed to limit reimbursement to the lower of these amounts. However, because the edit had not been fully implemented, it allowed some charges to be reimbursed at a billed cost that exceeded the state-wide ceiling.

The Department of Public Aid agreed that the edit coverage of services provided during SFY 2001 was incomplete and took steps to reprice claims in its database and to ensure that all payments were appropriate. We note that the Department of Public Aid subsequently modified its claim processing system to edit claimed costs for school-based services before initial payment, thus improving its system of payment control and eliminating the need for retroactive payment adjustments.

Developmental Services Not Under a Child's Plan/Family Plan (Condition 8)

Section 1903(c) of the Social Security Act states that the Secretary will pay for medical assistance for covered services that are ". . . furnished to a child with a disability because such services are included in the child's individualized education program . . . or furnished to an infant or toddler with a disability because such services are included in the child's individualized family service plan . . . ." Also, CMS's 1997 guide states that Medicaid will pay before the Department of Education for Medicaid-covered services listed in a child's plan/family plan.

We identified $328 (15 errors) in costs for unallowable developmental services, such as screenings, assessments, and evaluations, conducted to determine a child's health-related needs for purposes of a child's plan/family plan. Since these services were not included in, or did not result in the development of, a child's plan/family plan, we concluded that the costs were not reimbursable under section 1903(c) of the Social Security Act. We noted that Department of Public Aid policy permitted local education agencies to claim the costs for these services regardless of whether a child's plan/family plan was ultimately developed.

OVERPAYMENT PROJECTION

Based on a statistical projection to the population of paid student service months with service dates during SFY 2001, we estimated that the Federal share of overpayments for Illinois Medicaid school-based services was $6,067,669. This amount is the lower limit of the 90 percent confidence interval. (See Appendix A.)

RECOMMENDATIONS

We recommend that the Illinois Department of Public Aid:

- repay $6,067,669 in overpayments for school-based services not provided or billed in accordance with Federal and State Medicaid requirements;

- issue a provider notice reinforcing the need for complete and accurate compliance with Illinois policy (except that for developmental services, as noted below) on claims for school-based health services;

- fully implement the postpayment edit to limit payments to the lower of billed costs or the state-wide ceiling; and

- revise its policy to no longer allow local education agencies to claim costs for developmental services that were not furnished under a child's plan/family plan.

ILLINOIS COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE

In written comments on the draft report, the Illinois Department of Public Aid stated that it would implement corrective action plans at the local education agencies and issue additional instructions to them to explain the errors identified in conditions 1 through 7. A summary of the State's additional comments and our response follow. Illinois's comments are included in their entirety as Appendix C.

Payments Not Limited to Lower of Billed Cost or State-Wide Ceiling (Condition 7)

Illinois Comments

Illinois stated that since the conclusion of the audit fieldwork, it had begun repricing all claims in its paid claims database, regardless of whether the claims' dates of service fell within our audit period. It indicated that, rather than relying on sampling methodology, this repricing would determine any overpayments associated with condition 7. Illinois said that it would repay any such overpayments to CMS.

OIG's Response

We commend Illinois for correcting the systems deficiency. However, we do not agree with the State's apparent intention to repay CMS through recoveries realized based on the repricing of

claims, rather than the projection of our sample results. We continue to believe that Illinois should repay the total $6,067,669 based on our statistically valid projection.

Developmental Services Not Under a Child's Plan/Family Plan (Condition 8)

Illinois Comments

Illinois said that $292 of the $328 that we identified as unallowable was allowable under section 1903(c) of the Social Security Act, the CMS 1997 guide, and the Federal rule (34 CFR part 300) implementing the Individuals with Disabilities Education Act. Illinois stated that the establishment of a child's plan/family plan was not relevant because the furnished services were relied on to initially assess whether a child's plan/family plan was appropriate for a particular student. Illinois contended that all of the relevant claiming criteria, when viewed collectively, demonstrate that the correct criterion is the existence of a formal plan to assess the appropriateness of a child's plan/family plan, not the actual development of a child's plan/family plan.

OIG's Response

We continue to believe that the $328 was erroneously claimed. The unallowable services were not "included in the child's individual education program . . . or . . . individualized family service plan" as required by section 1903(c) of the Social Security Act. Also, the CMS guide further clarifies that Medicaid will pay prior to the Department of Education for "Medicaid-covered services listed in a child's IEP/IFSP [child's plan/family plan]." Since no plan was developed for these children, we believe that the related assessment services are not allowable.

Sampling Methodology

Illinois Comments

Illinois contended that the method by which claiming errors were extrapolated to project the $6,067,669 repayment was seriously flawed. It stated that the sample size used to achieve a 90 percent confidence level assumed homogeneity within each of the four strata and asserted that this assumption was incorrect for the fourth stratum, the rest of the State. This stratum, according to Illinois, included nearly 900 local education agencies, each with its own internal controls established to comply with State requirements. The State said that the effect of this sampling methodology was to project the value of errors found in a very small number of local education agencies to hundreds of unsampled agencies that may, themselves, have adequate controls.

Illinois stated that because of these concerns, it was unable to accept the repayment projection of $6,067,669.

OIG's Response

We maintain the validity of our projection. We agree that stratified sampling may increase precision in the estimates of population characteristics by dividing a heterogeneous population

into strata, each of which is internally homogeneous. Regarding any lack of homogeneity, the variability within the strata is accounted for in the precision of the estimate. The precision is reflected in the confidence interval. We based the overpayment estimate on the lower limit of the confidence interval. We would expect that a more efficient sampling design (or a larger sample) would improve the sample precision and would consequently result in a greater repayment liability. We note that the midpoint of our sample projection was $8,255,106.

APPENDICES

APPENDIX A

SAMPLING METHODOLOGY

POPULATION

The population included the number of student months of service for students receiving Medicaid school-based services in Illinois during SFY 2001. The population was limited to the number of student months having paid claims with a Federal funding component.

Stratum	Local Education Agencies	Student Months	Federal Payments
1	Chicago	209,367	$18,529,768
2	Exceptional Children Have Opportunities	4,357	929,582
3	Rockford	7,682	646,212
4	Rest of the State	251,131	17,395,527
		472,537	$37,501,089

SAMPLE DESIGN

We used a stratified sample with four strata. The first three strata represented the top three local education agencies based on the total service payable amounts for school-based services furnished during SFY 2001. The fourth stratum included the data for all other participating state-wide local education agencies with paid service amounts greater than zero.

RESULTS OF SAMPLE

The results of our sample review follow:

Stratum	Population (Student Months)	Sample Size	Sample Value	No. of Sample Items With Errors[1]	Value of Errors
1	209,367	100	$10,789	75	$1,525
2	4,357	100	24,111	44	2,030
3	7,682	100	10,268	50	2,526
4	251,131	50	3,033	29	951
	472,537	350	$48,201	198	$7,032

The point estimate of the projection of the sample was $8,255,106 with a precision of plus or minus $2,187,437 at the 90 percent confidence level. The lower limit of the projection was $6,067,669, and the upper limit was $10,442,543.

[1] Some of the 198 sample items with errors had more than 1 error, accounting for a total of 246 errors.

APPENDIX B

LOCAL EDUCATION AGENCIES IN REST-OF-THE-STATE STRATUM

The rest-of-the-State stratum included 50 student service months from the following local education agencies.

	Student Service Months
Alton	3
Aurora East	1
Berwyn North	1
Bloom Township High School	1
Bradley	1
Brookwood	1
Bushnell Prairie City	1
Cahokia	1
Carthage	1
Franklin-Jefferson	1
Freeport	1
Grundy County	2
Kewanee	1
Leyden Area	1
Macon-Piatt	3
Madison County	1
Meridian	2
Mid-State Special Education	1
Murphysboro	1
Pekin	1
Perandoe	1
Peru	1
Prairie-Hills	1
Putnam	1
Region III	5
Robinson	1
Rock Island	1
Savanna	1
Schaumburg	1
Sherrard	1
Southern Will	1
Springfield	2
Thornton Township High School	1
Urbana	1
Wabash & Ohio	2
Westmer	1
Whiteside	1
Willow Springs	1
Total	**50**

Illinois Department of Public Aic

Prescott E. Bloom Building
201 South Grand Avenue East
Springfield, Illinois 62763-0001

Rod. R. Blagojevich, Governor
Barry S. Maram, Director

Telephone: (217) 782-1200
TTY: (800) 526-5812

March 4, 2003

Department of Health and Human Services
Office of Audit Services
Attn: Paul Swanson, Regional Inspector General for Audit Services
233 North Michigan Avenue, Suite 1360
Chicago, Illinois 60601-5502

Re: Audit Report No. A-05-02-00049

Dear Mr. Swanson:

We are writing in response to the Audit Report No. A-05-02-00049. We thank you for providing the opportunity to do so. The Illinois Department of Public Aid (IDPA) commends the auditors from your office for the objective and fair methods by which their fieldwork was conducted. We agree with all of the factual conclusions drawn in the report. But we must disagree with one policy interpretation presented in the report. Also, we contend that the methodology by which sample data were extrapolated to estimate an overpayment is seriously flawed.

We agree with each of the conditions identified at the local education agencies (LEAs) by the audit. Each of these errors is inconsistent with the IDPA policy in force during the audit period (July 1, 2000 through June 30, 2001). We want to bring to your attention that immediately following the selected audit period, but prior to the commencement of the audit, the IDPA reiterated fee-for-service claiming requirements by; 1) re-enrolling each LEA in the program and eliminating the indirect reimbursement relationship through the Illinois State Board of Education that had previously existed, 2) further clarifying extant policy through the issuance of additional provider notices, revision of our Provider Handbook, and development of a website, and 3) providing an intensive training program for all LEAs throughout the state. To address any remaining deficiencies identified in conditions one through six, the Department is implementing a corrective action plan for each of the LEAs reviewed during the audit. In addition, the Department will be issuing, to all participating LEAs, additional provider instructions that explain the errors identified for these conditions.

In regard to the conditions identified at the IDPA, we agree with condition seven and thank the auditors for identifying that claims editing error. Upon its identification, the IDPA took steps to correct the problem. Since the conclusion of the audit fieldwork, the IDPA has begun repricing all claims on the Department's MMIS paid claims database, regardless of whether or not the claim's date of service fell within the audit period. This repricing will result in the repayment to the Centers for Medicare and Medicaid Services (CMMS).

The IDPA disagrees with the policy interpretation drawn for condition eight. During fieldwork, auditors correctly made a distinction between services that had no relevance to the development of an individualized education program (IEP) and services that were part of a formal, documented process to determine the appropriateness of an IEP, but no IEP was ever developed. The IDPA allows claiming for services relevant to the development of an IEP. Services that are not relevant to the development of an IEP are not allowed. Thus, the distinction between these two categories during

fieldwork was appropriate. However, in this final draft, the two categories have been combined. Fieldwork summary data provided to the IDPA indicate that $292 was attributed to services related to an assessment but no IEP was developed. Another $36 was attributed to services unrelated to an IEP assessment. We agree that the $36 was claimed in error. We disagree that the $292 was in error. Although the amount of claims in dispute is relatively small (less than 1% of the $48,201 in total claims reviewed), we believe that a correct policy interpretation is very significant in understanding the statutorily mandated relationship between the *Individuals with Disabilities Education Act* (*IDEA*) and Title XIX of the *Social Security Act*.

The draft audit report quotes a portion of Section 1903(c) of the *Social Security Act*. However, the report excludes the first part of the paragraph that clearly establishes the statutory intent to define what may not be prohibited from Medicaid reimbursement, rather than to define what may be included under Medicaid. The full paragraph reads as follows:

> Nothing in this title shall be construed as prohibiting or restricting, or authorizing the Secretary to prohibit or restrict, payment under subsection (a) for medical assistance for covered services furnished to a child with a disability because such services are included in the child's individualized education program established pursuant to part B of the Individuals with Disabilities Education Act or furnished to an infant or toddler with a disability because such services are included in the child's individualized family service plan adopted pursuant to part H of such Act. [emphasis added]

To clarify this language, in August 1997, CMMS issued, *Medicaid and Schools Health: A Technical Guide*, which states:

> In addition, if medical evaluations or assessments are conducted to determine a child's health-related needs for purposes of the IEP/IFSP, payment for some or all of the costs may be available under Medicaid. However, if the evaluations or assessments are for educational purposes, Medicaid reimbursement is not available. Medicaid payment is only available for the part of the assessment that is medical in nature and provided by qualified Medicaid providers. In addition, reimbursement for non-medical services, such as special instruction, is not covered. [emphasis added]

When analyzing the entire provision from which the selected language comes, it is clear that services necessary for the development may be claimed if all other conditions for claiming are met. That section of the Guide specifically states that the services must be medical and not educational, must be provided by a qualified Medicaid provider, and must meet the Medicaid requirements for coverage, including amount, duration and scope, comparability, medical necessity and prior authorization. The section is completely silent on whether and IEP must be developed. Therefore, the ability to claim is not contingent on whether an IEP is developed but rather whether the services meet the balance of the requirements necessary to qualify for Medicaid.

This CMMS language is consistent with the federal rule implementing the *IDEA* regarding responsibilities of non-educational (Medicaid) agencies. The rule requires the Medicaid agency to provide "related services" (34 *CFR* 300.142[b]), which include "early identification and assessment of disabilities in children" (34 *CFR* 300.24[a]) where "early identification of an assessment of disabilities in children means the implementation of a formal plan identifying a disability as early as possible in a child's life" (34 *CFR* 300.24[b][3]). [emphasis added]

Taken together, the statutory language of Title XIX, CMMS guidelines, and the administrative rules under the IDEA that defines Medicaid's participation, it is clear that the correct criterion is not whether or not an IEP was ultimately developed, but rather if there was a formal plan for assessing the appropriateness of an IEP. The Department's policy of limiting services to those that are medical in nature and included in or necessary for the development of an IEP meet this test and thus are reimbursable costs under the *Social Security Act*. Such conditions exist for the $292 in question.

Finally, but most significantly, the IDPA contends that the method by which claiming errors are extrapolated, to project the repayment $6,067,669, is seriously flawed. The sample size used to achieve a ninety percent confidence level assumes homogeneity within each of the four strata. This assumption is incorrect for the fourth strata, "Rest of State." Department staff raised this concern several times as the sampling design was being developed and implemented.

In the first three strata, each sample was being drawn from a single LEA. It is appropriate to assume homogeneity within a single LEA. As a unit of local government, an LEA has its own internal procedures to submit Medicaid claims. For the Chicago Public Schools, ECHO, and Rockford Public Schools, the audit drew a sample of sufficient size to determine the extent to which those districts complied with Departmental requirements. However, the fourth, "Rest of State," stratum included nearly nine hundred LEAs; each with its own internal controls established to comply with IDPA requirements. The effect of this sampling methodology is to project the value of errors found in a very small number of LEAs to hundreds of unsampled LEAs that may, themselves, have adequate controls. Homogeneity within this stratum of independently operating units of local government can not be assumed. Because of these concerns, we are unable to accept the repayment projections of $6,067,669.

Rather than relying on any sampling methodology, the IDPA will continue correcting actual claims and repay CMMS any overpayment associated with condition seven.

Despite our areas of methodological disagreement, we want to reiterate our appreciation for the work done by the auditors. It has been a useful exercise for the Department and we will use your results to reiterate required policies and improve our administration of this program.

Sincerely,

Barry S. Maram

Barry S. Maram
Director