DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of Inspector General
Offices of Audit Services

Region VII
601 East 12th Street
Room 284A
Kansas City, Missouri 64106

OCT 05 2004

Report Number A-07-03-02673

Karen Reinertson, Executive Director
Health Care Policy & Financing
1570 Grant Street
Denver, Colorado 80203-1818

Dear Ms. Reinertson:

Enclosed are two copies of the U.S. Department of Health and Human Services (HHS), Office of Inspector General (OIG) report entitled "Review of Medicaid Upper Payment Limit Requirements for Colorado." A copy of this report will be forwarded to the action official noted below for his review and any action deemed necessary.

Final determination as to actions taken on all matters reported will be made by the HHS action official named below. 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.

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Sincerely yours,

James P. Aasmundstad
Regional Inspector General
for Audit Services

Enclosures – as stated

Direct Reply to HHS Action Official:
Mr. Alex Trujillo
Regional Administrator, Region VIII
Centers for Medicare & Medicaid Services
1600 Broadway, Suite 700
Denver, CO 80202

Department of Health and Human Services

OFFICE OF INSPECTOR GENERAL

REVIEW OF MEDICAID UPPER PAYMENT LIMIT REQUIREMENTS FOR COLORADO

OCTOBER 2004
A-07-03-02673

Office of Inspector General

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OAS FINDINGS AND OPINIONS

The designation of financial or management practices as questionable or a recommendation for the disallowance of costs incurred or claimed as well as other conclusions and recommendations in this report represent the findings and opinions of the HHS/OIG/OAS. Authorized officials of the awarding agency will make final determination on these matters.

EXECUTIVE SUMMARY

BACKGROUND

Title XIX of the Social Security Act authorizes federal grants to states for their Medicaid programs. The Centers for Medicare & Medicaid Services (CMS) oversees the programs and approves each state plan, which provides details about how the state administers its Medicaid program. At the request of the Centers for Medicare & Medicaid Services (CMS), our audit covered Colorado's methodology and calculations for the upper payment limit and related payments for State Plan Amendments (SPA) 01-007 Inpatient Hospital effective July 1, 2001, 01-013 Outpatient Hospital effective October 10, 2001, and 01-018 Nursing Facility effective October 25, 2001. The audit period covered the implementation of the new upper payment limit regulations for State Fiscal year 2003.

OBJECTIVE

Our audit objectives were to determine whether the Colorado upper payment limit (UPL) and the related payments are reasonable and calculated in accordance with the revised Federal regulations and the approved state plan. We also were to determine whether upper payment limit payments have been properly included by Colorado when calculating disproportionate share hospital specific payment limits.

CRITERIA

The revised regulations changed the manner in which States calculate the UPL for various categories of providers. Under the former rule, States were required to calculate a UPL for all facilities and another UPL for State-owned facilities. The revised regulations instead require States to calculate three separate UPLs for private facilities, State facilities, and non-State-owned (public) facilities. The revised regulations also created transition periods in which eligible States were allowed to continue making payments that exceed the category-specific UPL up to the allowable excess (the portion of Medicaid payments that exceed the UPL for applicable base year). The revised regulations require that the allowable excess component not increase over the actual excess Medicaid payments in the applicable base year.

FINDING

Our review disclosed that Colorado followed its Medicaid state plan, and Federal laws and regulations for calculating the upper payment limit payments. However, Colorado did not follow 42 Code of Federal Regulations, Subpart D, § 420.300-304 supporting the calculation for the upper payment limit for Inpatient Hospitals. Colorado could not locate information verifying the initial Medicare base rates used in calculating the 01-007, Inpatient Hospital fiscal year 2003 Medicaid rate. Therefore, we could not determine whether Colorado's 2003 Medicaid enhanced payment was correct. Colorado should have kept the Medicare cost report information obtained from the Centers for Medicare & Medicaid Services files that would support the Medicaid rates.

Information supporting the fiscal year 2003 rates should have been accessible for 4 years as required by law (42 Code of Federal Regulations, Subpart D, § 420.300-304).

RECOMMENDATIONS

We recommend Colorado keep all information needed to calculate the current State Medicaid rates for a minimum of 4 years.

AUDITEE'S COMMENTS

Colorado officials agreed that the information supporting the 2003 Medicaid rates were lost but stated that they received approval from CMS to modify the Medicare Upper Payment Limit of Inpatient Hospital Services. This modification allows the State to use the most recently audited cost report from the provider, thus allowing the State to properly maintain the supporting information as required by 42 Code of Federal Regulations, Subpart D, § 420.300-304.

Colorado's response is attached to this report in its entirety.

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INTRODUCTION

BACKGROUND

Our audit was part of a multistate effort conducted under an inter-agency agreement between CMS and the Office of Inspector General.

Medicaid Program

Title XIX of the Social Security Act (Act) authorizes Federal payments to States for Medicaid programs that provide medical assistance to low-income families, elderly individuals, and persons with disabilities using a financing formula. Each State administers its Medicaid program in accordance with a CMS approved state plan. The Act requires the state plan to meet certain requirements, which includes Medicaid payments for care and services to be consistent with efficiency, economy, and quality of care. The Federal Government pays its share of medical assistance expenditures to a state according to a defined formula that yields the federal medical assistance percentage.

Upper Payment Limits

State Medicaid programs have flexibility in determining Medicaid payment rates for Medicaid providers. CMS allows States to use different rates to pay nursing facilities as long as payments, in total, do not exceed the UPL. The upper payment limit is the amount that Medicare would have paid for the Medicaid services provided under Medicaid payment principles. To limit abuses in the application of UPL requirements, CMS revised regulations at 42 CFR § 447.272. Effective March 13, 2001, revised regulations required States to calculate three separate UPLs-one for each category of provider.[1] Federal regulations at 42CFR § 447.257 state that Federal matching funds are not available for state expenditures that exceed the UPL.

State Plan Amendments

Colorado submitted three State Plan Amendments:

01-007 Inpatient Hospital

Effective July 1, 2001, non-state owned Government hospitals will receive additiona1 Medicaid reimbursement up to the allowable percentage of each hospital's inpatient Medicare Upper Payment Limit (as defined by the Centers for Medicare & Medicaid Services). The payment will be calculated based on each hospital's inpatient Medicare base rate multiplied by the allowable Medicare Upper Payment Limit percentage, less the Medicaid base rate, times the Medicaid case mix index times the number of Medicaid discharges. In no case will the payment plus the Medicaid reimbursement exceed the funds appropriated by the Colorado General Assembly in the fiscal year for which the payments are made. Additional payments made to Government Outstate Disproportionate Share Hospitals that participate in the Colorado Indigent

[1] The categories of owner-ship include: state-owned or operated, non-state government owned or operated, and privately-owned or operated.

Care Program as defined in Attachment 4. 19A (subsection Disproportionate Share Hospital Adjustments) will reduce the Disproportionate Share Hospital payments to these Government Outstate Disproportionate Share hospitals by an equal amount.

01-013 Outpatient Hospital

This plan discusses the methods and standards for establishing prospective payment rates for outpatient hospital services.

Effective October 10, 2001, the payment will be calculated based on each hospital's inflated outpatient charges, times the Medicare ratio of cost to charges, times the net difference between the allowable percentage of the Medicare Upper Payment Limit and the Medicaid outpatient reimbursement percentage of 72%.

This is a prospective payment system, the charge and payment data will be based on historical data.

01-018 Nursing Facility

This plan discusses the methods and standards for establishing prospective payment rates for nursing facility care. The effective date for this plan is October 25, 2001.

To complete the adjustment to quarterly expenditure reports, Medicaid recipients within the public nursing facilities shall be categorized into the forty-four (44) resource utilization groups (RUGs) established by the Centers for Medicare & Medicaid Services for the purpose of determining Medicare reimbursement. Once the RUGs categorization of Medicaid recipients is complete, a weighted average Medicare rate (which reflects the applicable rural wage index adjustment for the Prospective Payment System (PPS) will be calculated for each public facility. The weighted average Medicare rate will then be adjusted to remove ancillary services that are not included in the applicable Colorado Medicaid reimbursement rate for each public facility.

The quarterly payment adjustment is calculated by the difference between the Medicare reimbursement rate and the Medicaid reimbursement rate multiplied by the Medicaid utilization for each public facility.

OBJECTIVE, SCOPE, AND METHODOLOGY

Objective

Our audit objectives were to determine whether the Colorado upper payment limit and the related payments are reasonable and calculated in accordance with the revised Federal regulations and the approved state plan. We also were to determine whether upper payment limit payments have been properly included by Colorado when calculating disproportionate share hospital specific payment limits. At the request of the Centers for Medicare & Medicaid Services (CMS), our audit covered Colorado's methodology and calculations for the upper payment limit and related payments.

Scope

The scope of our review was limited to the evaluation of whether Colorado's Medicaid upper payment limits for fiscal year 2003 Medicaid payments met the Federal requirements of Title 42 Part 447 and Colorado's Medicaid State Plan Amendments 01-007-Inpatient Hospitals, 01-013-Outpatient Hospitals; and 01-018-Nursing Facilities. We did not complete any internal control work at the State.

Methodology

We selected a sample of providers from each of the three SPAs and followed the UPL calculation from the source through the State's formula to the actual payment. We obtained and reviewed the support for UPL payments through interviews and documentation obtained from Colorado's Department of Health Care Policy and Financing officials, CMS regional officials, and CMS's National Institutional Reimbursement Team.

The documentation supporting the historical data used in the calculation was obtained from various sources including, but not limited to audit contractors, Medicaid Acute Care Annual Report, CICP Annual Report, Colorado Health and Hospital Report, Medicaid Management Information System (MMIS), contractor Colorado Foundation Medical Care (CFMC), and COFRS (Colorado's Financial Reporting System). We also identified the non-State government owned facilities and calculated the aggregate upper payment limit for the group.

We analyzed Colorado's UPL calculations for SPA 01-007, Inpatient Hospital effective July 1, 2001; SPA 01-013, Outpatient Hospital effective October 10, 2001; and SPA 01-018, Nursing Facility effective October 25, 2001 to determine reasonableness of the calculation, and compliance with recently revised Federal regulations (Title 42, Chapter IV, Part 447, Subpart C, Section 447.272).

The review was conducted at the State of Colorado, Department of Health Care Policy and Financing.

Our review was performed in accordance with generally accepted government auditing standards.

FINDING AND RECOMMENDATION

Our review disclosed that Colorado followed its Medicaid state plan, and Federal laws and regulations for calculating the upper payment limit payments. However, Colorado did not follow 42 Code of Federal Regulations, Subpart D, § 420.300-304 supporting the calculation for the upper payment limit for Inpatient Hospitals. Colorado could not locate information verifying the initial Medicare base rates used in calculating the 01-007, Inpatient Hospital fiscal year 2003 Medicaid rate.

Access to Documentation Regulation

42 Code of Federal Regulations, Subpart D, § 420.300-304, requires the Department of Health and Human Services' Secretary have access to information that is necessary to verify the nature and extent of costs of services furnished under the contract until 4 years have elapsed after the services are furnished under the contract or subcontract.

SPA 01-007, Inpatient Hospital:
Colorado could not locate information verifying the initial Medicare base rates used in calculating the 01-007, Inpatient Hospital fiscal year 2003 Medicaid rate. Therefore, we could not determine whether Colorado's 2003 Medicaid UPL payment was correct. Colorado should have kept the Medicare cost report information obtained from the Centers for Medicare & Medicaid Services files that would support the Medicaid rates. Information supporting the fiscal year 2003 rates should have been accessible for 4 years as required by law (42 Code of Federal Regulations, Subpart D, § 420.300-304).

Recommendation

We recommend that Colorado keep all information needed to calculate the current State Medicaid rates for a minimum of 4 years.

AUDITEE'S COMMENTS

Colorado officials agreed that the information supporting the 2003 Medicaid rates were lost but stated that they received approval from CMS to modify the Medicare Upper Payment Limit of Inpatient Hospital Services. This modification allows the State to use the most recently audited cost report from the provider, thus allowing the State to properly maintain the supporting information as required by 42 Code of Federal Regulations, Subpart D, § 420.300-304.

Appendix

STATE OF COLORADO

DEPARTMENT OF HEALTH CARE POLICY & FINANCING

1570 Grant Street
Denver, Colorado 80203-1818
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Bill Owens
Governor

Karen Reinertson
Executive Director

August 23, 2004

James P. Aasmundstad
Regional Inspector General for Audit Services
Office of the Inspector General
Offices of Audit Services
Department of Health and Human Services
601 East 12th Street, Room 284A
Kansas City, Missouri 64106

Dear Mr. Aasmundstad:

Subject: Response to *Review of Medicaid Upper Payment Limit Requirements for Colorado*, Draft Report Issued July 2004 (Report Number A-07-03-02673)

This letter is in response to the *Review of Medicaid Upper Payment Limit Requirements for Colorado*, draft report issued July 2004 (Report Number A-07-03-02673). The Department of Health Care Policy and Financing appreciates the review of Colorado's methodology and calculations for the upper payment limit and related payments performed by your office. I am pleased that your report validated that the Department's staff properly followed the Medicaid State Plan, and federal laws and regulations for calculating the upper payment limit payments.

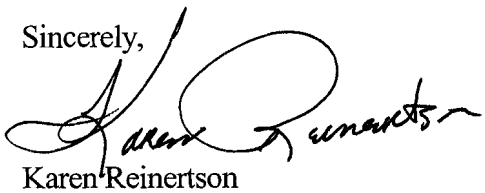
Your draft report did note that Colorado could not locate information verifying the initial Medicare base rates used in calculating the State Plan Amendment 01-007, Inpatient Hospital fiscal year 2003 Medicaid rate. The Department has prepared the following response to this finding:

> In calculating the Medicare Upper Payment Limit of Inpatient Hospital Services under State Plan Amendment 01-007, the initial Medicare base rates used in the calculation were for Federal Fiscal Year 2000 (implemented October 1, 1999). These base rates were inflated forward using the Medicare Economic Index to estimate the Medicare payment in State Fiscal Year 2003. The Department was able to document Medicare Economic Index figures and had indirectly verified the Medicare base rates for the state's largest providers through exchanges with these providers. The Federal Fiscal Year 2000 Medicare base rates were originally provided to the Department from the Medicare Fiscal Intermediaries, but the original documentation had since been lost. Even without this documentation, the Department considers the calculation under State Plan Amendment 01-007 to be a responsible estimate of the payment under Medicare payment principles for the related services and no Medicaid payments exceeded this calculation.

In addition, the Department has received approval from the Centers for Medicare and Medicaid Services to modify the Medicare Upper Payment Limit of Inpatient Hospital Services, which uses the most recently audited cost report from the provider. Using this new methodology will allow the Department to properly maintain the supporting information as required under the Medicare regulations found at 42 Code of Federal Regulations, Subpart D, § 420.300-304.

If you have any further questions, please contact Christopher Underwood, Manager, Safety Net Financing Section at (303) 866-5177.

Sincerely,



Karen Reinertson
Executive Director