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

July 8, 2004

Report Number A-07-04-03049

Vivianne Chaumont
Director of Medicaid
Division of Health Care Policy & Financing
1570 Grant Street
Denver, Colorado 80203

Dear Ms. Chaumont:

Enclosed are two copies of the U.S. Department of Health and Human Services (HHS), Office of Inspector General, Office of Audit Service's (OAS) report entitled *"Review of Colorado's Accounts Receivable System for Medicaid Provider Overpayments"* for the period October 1, 2002 through September 30, 2003.

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.

In accordance with the principles of the Freedom of Information Act (5 U.S.C. 552, as amended by Public Law 104-231), Office of Inspector General 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.)

To facilitate identification, please refer to Report Number A-07-03-03046 in all correspondence relating to this report. Any questions on any aspect of the report are welcome. Please contact Greg Tambke, Audit Manager, of our Jefferson City Office at (573) 893-8338, extension 30.

Sincerely,

James P. Aasmundstad
Regional Inspector General
for Audit Services

Department of Health and Human Services

OFFICE OF INSPECTOR GENERAL

REVIEW OF COLORADO'S ACCOUNTS RECEIVABLE SYSTEM FOR MEDICAID PROVIDER OVERPAYMENTS

JULY 2004
A-07-04-03049

Office of Inspector General

http://oig.hhs.gov

The mission of the Office of Inspector General (OIG), as mandated by Public Law 95-452, as amended, is to protect the integrity of the Department of Health and Human Services (HHS) programs, as well as the health and welfare of beneficiaries served by those programs. This statutory mission is carried out through a nationwide network of audits, investigations, and inspections conducted by the following operating components:

Office of Audit Services

The OIG's Office of Audit Services (OAS) provides all auditing services for HHS, either by conducting audits with its own audit resources or by overseeing audit work done by others. Audits examine the performance of HHS programs and/or its grantees and contractors in carrying out their respective responsibilities and are intended to provide independent assessments of HHS programs and operations in order to reduce waste, abuse, and mismanagement and to promote economy and efficiency throughout the department.

Office of Evaluation and Inspections

The OIG's Office of Evaluation and Inspections (OEI) conducts short-term management and program evaluations (called inspections) that focus on issues of concern to the department, the Congress, and the public. The findings and recommendations contained in the inspections reports generate rapid, accurate, and up-to-date information on the efficiency, vulnerability, and effectiveness of departmental programs. The OEI also oversees State Medicaid fraud control units, which investigate and prosecute fraud and patient abuse in the Medicaid program.

Office of Investigations

The OIG's Office of Investigations (OI) conducts criminal, civil, and administrative investigations of allegations of wrongdoing in HHS programs or to HHS beneficiaries and of unjust enrichment by providers. The investigative efforts of OI lead to criminal convictions, administrative sanctions, or civil monetary penalties.

Office of Counsel to the Inspector General

The Office of Counsel to the Inspector General (OCIG) provides general legal services to OIG, rendering advice and opinions on HHS programs and operations and providing all legal support in OIG's internal operations. The OCIG imposes program exclusions and civil monetary penalties on health care providers and litigates those actions within the department. The OCIG also represents OIG in the global settlement of cases arising under the Civil False Claims Act, develops and monitors corporate integrity agreements, develops model compliance plans, renders advisory opinions on OIG sanctions to the health care community, and issues fraud alerts and other industry guidance.

Notices

THIS REPORT IS AVAILABLE TO THE PUBLIC
at http://oig.hhs.gov/

In accordance with the principles of the Freedom of Information Act, 5 U.S.C. 552, as amended by Public Law 104-231, Office of Inspector General, Office of Audit Services, reports are made available to members of the public to the extent information contained therein is not subject to exemptions in the Act. (See 45 CFR Part 5.)

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

This report is part of a nationwide audit focusing on States' accounts receivable systems for Medicaid provider overpayments that were reportable during the period October 1, 2002 through September 30, 2003. During the state fiscal year 2003, Colorado received about $4.9 billion for various Federal programs. The Medicaid program was the largest Federal program administered by the State with expenditures exceeding $2.6 billion for the period. Colorado's Department of Health Care Policy and Financing (State agency) is responsible for administering the State's Medicaid program.

Provisions of the Social Security Act (the Act) provide the Centers for Medicare & Medicaid Services (CMS) the authority to approve States' plans for administering the Medicaid program. That legislation also provides CMS authority to disallow the Federal share for any Medicaid provider overpayments. States are required to return the Federal share of overpayments within 60-days of the date of discovery. It must credit the Federal share of those overpayments on the CMS 64 report for the quarter in which the 60-day period ends. Furthermore, it is not allowed to reduce the Federal share by settling overpayment receivables for less money than is supported by provider's records.

OBJECTIVE

Our objective was to determine whether the State agency reported Medicaid provider overpayments according to Federal regulations.

FINDINGS

The State agency did not report all Medicaid provider overpayments on the CMS 64 report in accordance with Federal regulations. Its policies and procedures were not sufficient to ensure the timely reporting of all overpayments. As a result, the State agency delayed returning the Federal share of identified overpayments totaling $469,756. Of that amount, the State agency had not yet reported or returned to the Federal government $334,698 as of February 11, 2004.

RECOMMENDATIONS

The State Agency should:

- ensure that the Federal share of overpayments totaling $334,698 is returned to the Federal government as soon as possible;

- strengthen policies and procedures to ensure all overpayments are reported in accordance with Federal regulations. Specifically, it should:

- complete established reconciliation procedures in a timely manner;
- return the Federal share of appealed overpayments as required.

OTHER MATTER

By not reporting overpayments in a timely manner, the State agency effectively denied CMS the use of funds that would have otherwise been available for the Medicaid program. The Cash Management Improvement Act of 1990 provides a means to calculate the value of opportunity costs such as this. Applying that methodology, CMS could have realized potential interest income totaling $4,212.

AUDITEE'S COMMENTS

The State agency agreed with our findings and recommendations. The State agency's response is included in its entirety as Appendix A.

TABLE OF CONTENTS

INTRODUCTION

BACKGROUND

State Responsibility for Medicaid Provider Overpayments

The Medicaid program, established by Title XIX of the Act, provides grants to States for medical and health-related services to eligible low-income persons. This program is a jointly funded cooperative venture between the Federal and State governments.

CMS administers the Medicaid program at the Federal level and is responsible for ensuring that State Medicaid programs meet all Federal requirements. States are required to submit to CMS a comprehensive written State Plan that describes the nature and scope of its program. If the State Plan meets specific Federal requirements, then CMS matches the State's Medicaid spending through Federal Financial Participation. This amount is determined by a formula based on the State's per capita income.

Each State establishes or designates an agency to manage the Medicaid program. Colorado's Department of Health Care Policy and Financing is responsible for administering the State's Medicaid program. During the state fiscal year 2003, Colorado received about $4.9 billion for various Federal programs. The Medicaid program was the largest Federal program administered by the State with expenditures exceeding $2.6 billion for the period.

Criteria for Medicaid Provider Overpayments

The principal authority cited by CMS in disallowing the Federal share for provider overpayments is section 1903(d)(2) of the Act. The Consolidated Omnibus Budget Reconciliation Act of 1985 amended this section and states that CMS will adjust reimbursement to a State for any overpayment. Furthermore, States are required to return the Federal share of overpayments within 60-days of the date of discovery, whether or not the recovery was made.

This legislation is codified in 42 CFR 433 subpart F, "Refunding of Federal Share of Medicaid Overpayments to Providers". The regulation requires States to credit the Federal share of overpayments on the CMS 64 report for the quarter in which the 60-day period following discovery ends.

In addition, Departmental Appeals Board decision 1391 addresses overpayment settlements between the State and a provider. States are not allowed to reduce the Federal share by settling overpayment receivables for less money than is supported by provider's records.

OBJECTIVE, SCOPE, AND METHODOLOGY

Objective

Our objective was to determine whether the State agency reported Medicaid provider overpayments according to Federal regulations.

Scope

We examined Medicaid provider overpayments subject to the requirements of 42 CFR 433 subpart F for the period October 1, 2002 through September 30, 2003. We also reviewed overpayments not reported on the CMS 64 report as of the beginning of the audit period. We reviewed 138 provider overpayments totaling $2,321,748.

We did not review the overall internal control structure of State agency operations or its financial management. However, we gained an understanding of controls with respect to provider overpayments.

Methodology

We reviewed applicable Federal criteria, including section 1903 of the Act, 42 CFR 433, Departmental Appeals Board decision 1391, and applicable sections of the State Medicaid manual.

During fieldwork, we interviewed State agency officials responsible for identifying and monitoring collections of overpayments, as well as staff responsible for reporting the Federal share of overpayments. We reviewed documentation to determine the date of discovery, status of the overpayment, and whether any adjustments or write-offs occurred during the audit period. In addition, we compared the CMS 64 reports submitted to CMS by the State agency to supporting documentation.

We verified accounting transactions for overpayments reviewed. This process included a review of reconciliation worksheets that identified accounts receivable balances contained in the Colorado Financial Reporting System and the Medicaid Management Information System. We then calculated the number of days between the actual and required reporting dates. We analyzed this information to determine whether the State agency reported overpayments accurately and in compliance with time requirements.

Finally, we calculated potential lost interest using the Cash Management Improvement Act (CMIA) Rate[1] applied to the Federal share of late overpayments.

[1] 1.14 percent annualized interest rate per the CMIA of 1990. The CMIA of 1990 was passed to improve the transfer of Federal funds between the Federal government and the States, Territories, and the District of Columbia and provides a means to assess an interest liability to the Federal government and/or the States to compensate for the lost value of funds.

We performed site work at the State agency in Denver, Colorado during February through April of 2004.

We performed the audit in accordance with generally accepted government auditing standards.

FINDINGS AND RECOMMENDATIONS

The State agency did not report all Medicaid provider overpayments on the CMS 64 report in accordance with Federal regulations. Its policies and procedures were not sufficient to ensure the timely reporting of all overpayments. As a result, the State agency delayed returning the Federal share of identified overpayments totaling $469,756. Of that amount, the State agency had not yet reported or returned to the Federal government $334,698 as of February 11, 2004.

OVERPAYMENTS NOT REPORTED TIMELY

Criteria-The State Agency Must Return the Federal Share Within 60 Days of Discovery

According to 42 CFR 433 subpart F, a Medicaid agency has 60 days from the date of discovery to recover a provider overpayment before the Federal share must be refunded to CMS. Discovery is notification to the provider that an overpayment exists and is due to the State.

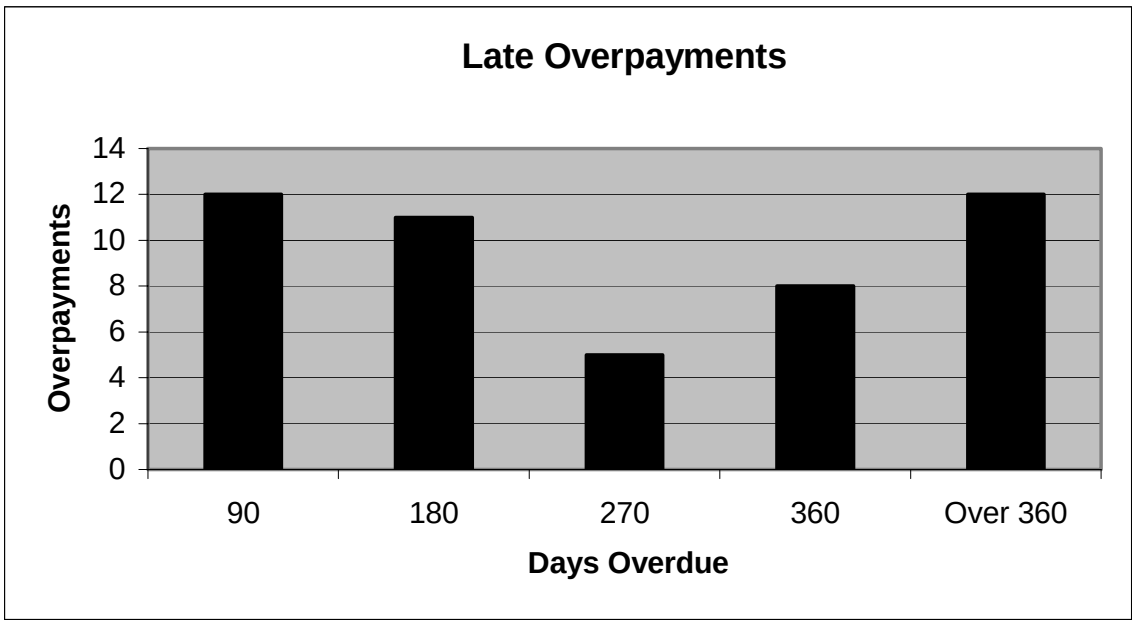
The State agency must refund the Federal share of overpayments at the end of the 60-day period, whether or not the State has recovered the overpayment from the provider. The State agency must credit the Federal share on the CMS 64 report for the quarter in which the 60-day period following discovery ends.

In addition, Departmental Appeals Board decision 1391 addresses overpayment settlements between the State and a provider. States are not allowed to reduce the Federal share by settling overpayment receivables for less money than is supported by provider's records. Settlements, based on a perceived likelihood of the provider's success in litigation or simply to avoid administrative costs or litigation expenses, do not justify a reduction in the Federal share of an overpayment.

Condition-The State Agency Reported Overpayments Late.

The State agency did not report 48 overpayments on the proper quarterly CMS 64 report as required. Specifically, the State agency did not report 26 overpayments; and reported 22 others late.

The following chart provides a breakdown of the past due overpayments.



Cause-Policies and Procedures Were Insufficient.

The State agency's policies and procedures were not sufficient to ensure timely reporting of all overpayments on the CMS 64 report. Specifically, it did not follow established procedures to ensure accurate processing of all accounting transactions. Reconciliation procedures were in place to identify errors in processing. However, it did not complete the reconciliation process in accordance with those established procedures.

Furthermore, the State agency did not have adequate policies and procedures in place to properly report the Federal share of appealed overpayments. First, the State agency delayed reporting the Federal share until it reached a final settlement with the provider. In some cases, the Federal share was due prior to final settlement. Second, it made adjustments in an effort to settle some appeals. Without proper support, such action inappropriately reduced the Federal share.

Effect-The State Agency Did Not Return the Federal Share When Due.

The State agency delayed reporting 48 overpayments. The Federal share related to those overpayments totaling $469,756 was not returned to the Federal government when due. The State agency had not reported or returned the Federal share of 26 of those overpayments totaling $334,698 as of February 11, 2004.

RECOMMENDATIONS

The State Agency should:

- ensure that the Federal share of overpayments totaling $334,698 is returned to the Federal government as soon as possible;

- strengthen policies and procedures to ensure all overpayments are reported in accordance with Federal regulations. Specifically, it should:

    - complete established reconciliation procedures in a timely manner;
    - return the Federal share of appealed overpayments as required.

OTHER MATTER

Opportunity Cost

By not reporting overpayments in a timely manner, the State agency effectively denied CMS the use of funds that would have otherwise been available for the Medicaid program. The Cash Management Improvement Act of 1990 provides a means to calculate the value of opportunity costs such as this. Applying that methodology, CMS could have realized potential interest income totaling $4,212.

AUDITEE'S COMMENTS

The State agency agreed with our findings and recommendations. The State agency's response is included in its entirety as Appendix A.

Appendix

STATE OF COLORADO

DEPARTMENT OF HEALTH CARE POLICY & FINANCING

1570 Grant Street
Denver, Colorado 80203-1818
(303) 866-2993
(303) 866-4411 FAX
(303) 866-3883 TTY

Bill Owens
Governor

Karen Reinertson
Executive Director

June 23, 2004

Mr. Greg Tambke
Office of Inspector General
Office of Audit Services
Region VII
601 East 12th Street
Room 284A
Kansas City, Missouri 64106

Regarding: Report Number A-07-04-03049

Dear Mr. Tambke:

Please find the State of Colorado's response to the recommendation in the audit report referenced above. If you have any questions about the State's response, please contact our Department Controller Phil Reed at 303-866-2764 or philip.reed@state.co.us.

Sincerely,

Vivianne M. Chaumont
Director
Medical Assistance Office

VMC/pjr

Department of Health and Human Services

OFFICE OF INSPECTOR GENERAL

REVIEW OF COLORADO'S ACCOUNTS RECEIVABLE SYSTEM FOR MEDICAID PROVIDER OVERPAYMENTS

RECOMMEDATIONS

The State Agency should:

- ensure that the Federal share of overpayments totaling $334,698 is returned to the Federal government as soon as possible;

- strengthen policies and procedures to ensure all overpayments are reported in accordance with Federal regulations. Specifically, it should:

  - complete established reconciliation procedures in a timely manner;
  - return the Federal share of appealed overpayments as required.

Response:

The State Agency agrees with the audit finding. While on site, the OIG audit staff was very complimentary of the State Agency's efforts and procedures. The report only addresses the identified deficiencies. The State Agency is proud of its efforts to properly account for a very large volume of provider recoveries and to properly return the Federal government's share timely and feels that the limited audit findings support that position.

Specifically:

- The State Agency does not dispute the dollar amount of the finding and will return this amount to the Federal government in the 4th Quarter of Federal Fiscal Year 2004.

- The State Agency will strengthen its internal policies and procedures to ensure that all identified recoveries are properly and timely recorded so that the Federal share of the recoveries are returned within the 60-day requirement.

  - The State Agency is current on all established reconciliation procedures and has every intention of remaining current with those reconciliations.
  - The State Agency will return the Federal government's share of any identified reduced overpayments that were not based on provider records. In the future, when the State Agency is timely with the initial recording of

all recoveries and the associated federal repayments, any reduction of recovery based on State Agency staff judgment will only impact the State Agency's recovery amount and will not impact the Federal Government or their recovery.