FEB 4 2009

TO: Charlene Frizzera
Acting Administrator
Centers for Medicare & Medicaid Services

FROM: Daniel R. Levinson Daniel R. Levinson
Inspector General

SUBJECT: Review of State Plan Amendments Authorizing Disproportionate Share Hospital Payments by Pennsylvania to Hospitals of State-Related Universities (A-03-07-00222)

Attached is an advance copy of our final report on State plan amendments (SPA) authorizing disproportionate share hospital (DSH) payments by Pennsylvania to hospitals of State-related universities. We will issue this report to the Pennsylvania Department of Public Welfare (the State agency) within 5 business days. This audit was part of an initiative to determine the extent to which State Medicaid agencies have contracted with consultants through contingency fee arrangements and the effect of those arrangements on the submission of questionable or improper claims to the Federal Government.

As recommended by its consultant, the State agency submitted to the Centers for Medicare & Medicaid Services (CMS) SPAs authorizing DSH payments for State fiscal years (FY) 2005–06, 2006–07, and 2007–08 to the three hospitals associated with State-related universities. The SPAs authorized DSH payments to ensure services to the medical assistance population and to help offset medical education costs incurred by the three hospitals. CMS approved the SPAs for FYs 2005–06 and 2006–07 prior to our review. After we completed our review, CMS approved the SPA for State FY 2007–08.

Our objective was to determine whether the three hospitals retained DSH payments intended to offset the medical assistance share of their medical education costs under the State plan.

One of the three hospitals retained its DSH payments. However, the two other hospitals did not retain their DSH payments, and the universities that received the money may not have used it to help offset the medical assistance share of their medical education costs in compliance with the SPAs. The two hospitals redirected to their university medical schools a total of $17.3 million (Federal share) in State FY 2005–06 and $17.8 million (Federal share) in State FY 2006–07. The two hospitals did not require the medical schools to account for how they used the funds. Therefore, we could not determine whether the medical schools used the DSH funds in compliance with the SPAs. Officials of the three hospitals informed us that the State had instructed the hospitals to redirect the DSH funds provided under the SPAs, including Federal matching funds, to the universities associated with the hospitals.

We recommend that the State agency work with CMS to resolve:

- $17,327,381 (Federal share) in DSH payments redirected to university medical schools in State FY 2005–06 and $17,786,638 (Federal share) in State FY 2006–07 and

- DSH payments redirected to university medical schools after our review period, including any portion of the $25.5 million estimated Federal share for State FY 2007–08.

In written comments on our draft report, the State agency said that CMS had approved the SPAs for the 3 State FYs. The State agency agreed to work with CMS on any future academic medical center SPAs but said that it was not aware of any Federal regulation or legislation that requires the hospitals to retain their DSH payments.

Because two hospitals did not require their associated medical schools to account for how they used DSH funds in State FYs 2005–06 and 2006–07, we could not determine whether the funds were used in compliance with the SPAs. We revised our second recommendation to acknowledge CMS's approval of the SPA for State FY 2007–08 subsequent to our review. We support our recommendations, as revised, and agree that the State agency should work with CMS on any future academic medical center SPAs.

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 through e-mail at George.Reeb@oig.hhs.gov or Stephen Virbitsky, Regional Inspector General for Audit Services, Region III, at (215) 861-4470 or through e-mail at Stephen.Virbitsky@oig.hhs.gov. Please refer to report number A-03-07-00222.

Attachment

DEPARTMENT OF HEALTH & HUMAN SERVICES OFFICE OF INSPECTOR GENERAL

Office of Audit Services, Region III
Public Ledger Building, Suite 316
150 S. Independence Mall West
Philadelphia, PA 19106-3499

FEB -9 2009

Report Number: A-03-07-00222

Mr. Theodore Dallas
Executive Deputy Secretary
Pennsylvania Department of Public Welfare
P.O. Box 2675
Harrisburg, Pennsylvania 17105-2675

Dear Mr. Dallas:

Enclosed is the U.S. Department of Health and Human Services (HHS), Office of Inspector General (OIG), final report entitled "Review of State Plan Amendments Authorizing Disproportionate Share Hospital Payments by Pennsylvania to Hospitals of State-Related Universities." We will forward a copy of this report to the HHS action official noted on the following page for review and any action deemed necessary.

The HHS action official will make final determination as to actions taken on all matters reported. We request that you respond to this 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.

Pursuant to the principles of the Freedom of Information Act, 5 U.S.C. § 552, as amended by Public Law 104-231, OIG reports generally are made available to the public to the extent the information is not subject to exemptions in the Act (45 CFR part 5). Accordingly, this report will be posted on the Internet at http://oig.hhs.gov.

If you have any questions or comments about this report, please do not hesitate to call me, or contact Robert Baiocco, Audit Manager, at (215) 861-4486 or through e-mail at Robert.Baiocco@oig.hhs.gov. Please refer to report number A-03-07-00222 in all correspondence.

Sincerely,

Stephen Virbitsky
Regional Inspector General
for Audit Services

Enclosure

Direct Reply to HHS Action Official:

Ms. Jackie Garner
Consortium Administrator
Consortium for Medicaid and Children's Health Operations
Centers for Medicare & Medicaid Services
233 North Michigan Avenue, Suite 600
Chicago, Illinois 60601

Department of Health and Human Services

OFFICE OF
INSPECTOR GENERAL

REVIEW OF STATE PLAN AMENDMENTS AUTHORIZING DISPROPORTIONATE SHARE HOSPITAL PAYMENTS BY PENNSYLVANIA TO HOSPITALS OF STATE-RELATED UNIVERSITIES

Daniel R. Levinson
Inspector General

February 2009
A-03-07-00222

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:

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THIS REPORT IS AVAILABLE TO THE PUBLIC
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Pursuant to 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 generally are made available to the public to the extent the information is not subject to exemptions in the Act (45 CFR part 5).

OFFICE OF AUDIT SERVICES FINDINGS AND OPINIONS

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

EXECUTIVE SUMMARY

BACKGROUND

Pursuant to Title XIX of the Social Security Act (the Act), the Medicaid program provides medical assistance to low-income individuals and individuals with disabilities. The Federal and State Governments jointly fund and administer the Medicaid program. At the Federal level, the Centers for Medicare & Medicaid Services (CMS) administers the program. Each State administers its Medicaid program in accordance with a CMS-approved State plan. Although the State has considerable flexibility in designing and operating its Medicaid program, it must comply with applicable Federal requirements. In Pennsylvania, the Department of Public Welfare (the State agency) administers the Medicaid program.

Section 1923 of the Act requires that States make Medicaid disproportionate share hospital (DSH) payments to hospitals that serve a disproportionately large number of low-income patients. The Omnibus Budget Reconciliation Act of 1993 limits these payments to the annual costs incurred to provide services to Medicaid and uninsured patients less payments received for those patients.

The State agency contracted with Maximus, Inc. (Maximus), on a contingency fee basis to generate Federal funding for State programs. As recommended by Maximus, the State agency submitted State plan amendments (SPA) that authorized DSH payments for State fiscal years (FY) 2005–06, 2006–07, and 2007–08 to the three hospitals associated with State-related universities (the three hospitals). The SPAs authorized DSH payments to ensure services to the medical assistance population and to help offset medical education costs incurred by the three hospitals. CMS approved the SPAs for State FYs 2005–06 and 2006–07 prior to our review. After we completed our review, CMS approved the SPA for State FY 2007–08.

This report is part of an Office of Inspector General initiative to determine the extent to which State Medicaid agencies have contracted with consultants through contingency fee arrangements and the effect of those arrangements on the submission of questionable or improper claims to the Federal Government.

OBJECTIVE

Our objective was to determine whether the three hospitals retained DSH payments intended to offset the medical assistance share of their medical education costs under the State plan.

SUMMARY OF FINDING

One of the three hospitals, Penn State Milton S. Hershey Medical Center, retained its DSH payments, including a Federal share of $7.6 million in State FY 2005–06 and $7.8 million in State FY 2006–07. However, the two other hospitals did not retain their DSH payments, and the universities that received the money may not have used it to help offset the medical assistance share of their medical education costs in compliance with the SPAs. Specifically, the University of Pittsburgh Medical Center—Presbyterian/Shadyside (Presbyterian) and Temple University

Hospital (Temple) redirected to their university medical schools a total of $17.3 million (Federal share) in State FY 2005–06 and $17.8 million (Federal share) in State FY 2006–07. The two hospitals did not require the medical schools to account for how they used the funds. Accordingly, we could not determine whether the medical schools used the DSH funds in compliance with the SPAs.

Before State FY 2005–06, the State made annual appropriations to the three State-related universities expressly for medical education. Beginning in State FY 2005–06, the State eliminated express appropriations for medical education from its appropriation bills. Officials of the three hospitals informed us that the State had instructed the hospitals to redirect the DSH funds provided under the SPAs, including Federal matching funds, to the universities associated with the hospitals.

RECOMMENDATIONS

We recommend that the State agency work with CMS to resolve:

- $17,327,381 (Federal share) in DSH payments redirected to university medical schools in State FY 2005–06 and $17,786,638 (Federal share) in State FY 2006–07 and

- DSH payments redirected to university medical schools after our review period, including any portion of the $25.5 million estimated Federal share for State FY 2007–08.

STATE AGENCY COMMENTS

In written comments on our draft report, the State agency said that CMS had approved the SPAs for State FYs 2005–06, 2006–07, and 2007–08. The State agency agreed to work with CMS on any future academic medical center SPAs but said that it was not aware of any Federal regulation or legislation that requires the three hospitals to retain their DSH payments. The State agency's comments are presented in their entirety as the Appendix.

OFFICE OF INSPECTOR GENERAL RESPONSE

Because Presbyterian and Temple did not require their associated medical schools to account for how they used DSH funds in State FYs 2005–06 and 2006–07, we could not determine whether the funds were used in compliance with the SPAs. We revised our second recommendation to acknowledge CMS's approval of the SPA for State FY 2007–08 subsequent to our review. We support our recommendations, as revised, and agree that the State agency should work with CMS on any future academic medical center SPAs.

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INTRODUCTION

BACKGROUND

Medicaid and the Disproportionate Share Hospital Program

Pursuant to Title XIX of the Social Security Act (the Act), the Medicaid program provides medical assistance to low-income individuals and individuals with disabilities. The Federal and State Governments jointly fund and administer the Medicaid program. At the Federal level, the Centers for Medicare & Medicaid Services (CMS) administers the program. Each State administers its Medicaid program in accordance with a CMS-approved State plan. Although the State has considerable flexibility in designing and operating its Medicaid program, it must comply with applicable Federal requirements. In Pennsylvania, the Department of Public Welfare (the State agency) administers the Medicaid program. During the audit period, Pennsylvania's Federal share ranged from 53.84 percent to 55.05 percent.

Section 1923 of the Act requires that States make Medicaid disproportionate share hospital (DSH) payments to hospitals that serve a disproportionately large number of low-income patients. The Omnibus Budget Reconciliation Act of 1993 limits these payments to the annual costs incurred to provide services to Medicaid and uninsured patients less payments received for those patients. This limit is known as the hospital-specific DSH limit.

Hospitals Associated With Pennsylvania's State-Related Universities

During our audit period (State fiscal years (FY) 2005–06 and 2006–07),[1] the State agency made some DSH payments to the three hospitals associated with State-related universities (the three hospitals):

- Penn State Milton S. Hershey Medical Center (Hershey),
- University of Pittsburgh Medical Center—Presbyterian/Shadyside (Presbyterian), and
- Temple University Hospital (Temple).

Before our audit period, Pennsylvania provided appropriated funds to each State-related university, including its medical school and associated hospital. Each of the three hospitals is a legal entity separate from its associated university medical school.

The State Agency's Use of a Consultant

The Office of Inspector General is conducting a nationwide initiative to determine the extent to which State Medicaid agencies have contracted with consultants through contingency fee arrangements and the effect of those arrangements on the submission of questionable or improper claims to the Federal Government. In Pennsylvania, the State agency contracted with

[1]Pennsylvania's FY is July 1 through June 30. State FY 2005–06 began July 1, 2005.

Maximus, Inc. (Maximus), on a contingency fee basis to generate Federal funding for State programs. The State agency paid Maximus a contingency fee of $1,220,865 for securing $24.9 million in Federal matching funds for State FY 2005-06. The State agency did not claim a Federal share of that contingency fee. (We did not review the contingency fee arrangements for State FYs 2006-07 and 2007-08.)

As recommended by Maximus, the State agency submitted State plan amendments (SPA) that authorized DSH payments limited to the three hospitals for State FYs 2005–06, 2006–07, and 2007–08 (SPAs 05-014, 06-006, and 07-017, respectively). The SPAs authorized DSH payments to ensure services to the medical assistance population and to help offset medical education costs incurred by the three hospitals. CMS approved the first two SPAs prior to our review. On June 26, 2008, after we completed our review, CMS approved the SPA for State FY 2007–08.

In its letter approving the SPA for State FY 2005–06, CMS informed the State agency that CMS's Philadelphia regional office would verify that DSH payments did not exceed the hospital-specific DSH limit of each of the three hospitals. At CMS's request, we conducted those reviews, and we issued a report on each hospital to the State agency.[2] Each report found that DSH payments that the State agency claimed complied with the hospital-specific DSH limit.

OBJECTIVE, SCOPE, AND METHODOLOGY

Objective

Our objective was to determine whether the three hospitals retained DSH payments intended to offset the medical assistance share of their medical education costs under the State plan.

Scope

This review covered the SPAs that authorized DSH payments to the three hospitals for State FYs 2005–06 and 2006–07. For State FY 2005–06, the State agency made $45.5 million ($24.9 million Federal share) in DSH payments to the three hospitals, as authorized by the SPA. For State FY 2006–07, the DSH payments totaled $46.9 million ($25.6 million Federal share).

We did not perform an indepth review of the State agency's internal control structure; however, we made a limited assessment of the fiscal controls related to DSH claims submitted for Federal reimbursement.

We conducted our fieldwork at the State agency in Harrisburg, Pennsylvania, and at the business offices of the three hospitals in Hershey, Pittsburgh, and Philadelphia, Pennsylvania.

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[2] "Review of Disproportionate Share Hospital Payments Made by Pennsylvania to Temple University Hospital for State Fiscal Year 2005–06" (A-03-07-00207), "Review of Disproportionate Share Hospital Payments Made by Pennsylvania to Penn State Milton S. Hershey Medical Center for State Fiscal Year 2005–06" (A-03-07-00208), and "Review of Disproportionate Share Hospital Payments Made by Pennsylvania to University of Pittsburgh Medical Center—Presbyterian/Shadyside for State Fiscal Year 2005–06" (A-03-07-00209).

Methodology

To accomplish our objective, we:

- met with CMS staff to discuss revenue maximization programs initiated through contingency fee contracts;
- reviewed the Maximus proposal for revenue maximization;
- reviewed the contract between the State agency and Maximus;
- discussed with CMS regional staff their intention to have the Office of Inspector General conduct this review;
- reviewed the Omnibus Budget Reconciliation Acts of 1981 and 1993, sections 1902 and 1923 of the Act, and Federal guidance applicable to the DSH program;
- reviewed SPAs 05-014, 06-006, and 07-017 and the associated correspondence between the State agency and CMS;
- reviewed CMS policies and procedures for approving SPAs;
- reviewed State agency and hospital documents and discussed with hospital and university officials the use of the DSH payments;
- reviewed the financial statements of the three hospitals and interviewed university officials to verify that the three hospitals and the State-related university medical schools were separate legal entities;
- traced the receipt, disbursement, and accounting treatment of DSH payments authorized under SPAs 05-014 and 06-006;
- discussed our audit results with hospital and university officials; and
- discussed with CMS staff our audit results and the status of the approval process concerning SPA 07-017.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our finding and conclusions based on our audit objective.

FINDING AND RECOMMENDATIONS

One of the three hospitals, Hershey, retained its DSH payments, including a Federal share of $7.6 million in State FY 2005–06 and $7.8 million in State FY 2006–07. However, the two other hospitals did not retain their DSH payments, and the universities that received the money may not have used it to help offset the medical assistance share of their medical education costs in compliance with the SPAs. Specifically, Presbyterian and Temple redirected to their university medical schools a total of $17.3 million (Federal share) in State FY 2005–06 and $17.8 million (Federal share) in State FY 2006–07. The two hospitals did not require the medical schools to account for how they used the funds. Accordingly, we could not determine whether the medical schools used the DSH funds in compliance with the SPAs.

Before State FY 2005–06, the State made annual appropriations to the three State-related universities expressly for medical education. Beginning in State FY 2005–06, the State eliminated express appropriations for medical education from its appropriation bills. Officials of the three hospitals informed us that the State had instructed the hospitals to redirect the DSH funds provided under the SPAs, including Federal matching funds, to the universities associated with the hospitals.

FEDERAL AND STATE PLAN REQUIREMENTS

Federal Requirements

Section 1903(a)(1) of the Act provides for Federal matching funds only for those expenditures made by a State under an approved State plan. Federal regulations (42 CFR § 430.10) require that the State plan describe "the nature and scope of its Medicaid program." In addition, the State plan should contain "all information necessary for CMS to determine whether the plan can be approved to serve as a basis for Federal Financial participation . . . ."

State Plan Amendments

The State agency submitted SPA 05-014 to CMS on June 29, 2005. The SPA authorized DSH payments of $45.5 million ($24.9 million Federal share) for State FY 2005–06 to "assure that critical services to the Medical Assistance population will continue" and "to help offset the Medical Assistance share of the <u>medical education costs incurred by these hospitals</u>." (Emphasis added.)

CMS requested additional information about the medical education program costs covered by the SPA. The State agency answered that costs funded by the DSH payments included:

> . . . both direct and indirect medical education costs incurred by the qualifying academic medical centers related to <u>Medical Assistance (MA) Program and uninsured patients</u> . . . . These costs include the conducting of medical tests and procedures that have the dual purpose of providing experience to the residents in administering the tests and in analyzing the results for diagnosis and treatment purposes. [Emphasis added.]

CMS approved SPA 05-014 in February 2006 (effective July 1, 2005). On September 25, 2006, the State agency submitted a substantially similar SPA, 06-006, authorizing DSH payments of $46.9 million ($25.6 million Federal share) for State FY 2006–07. CMS approved that SPA in December 2006 (effective July 1, 2006). Both SPAs stated that DSH payments were to be used to offset hospital medical education costs and did not authorize any other use of DSH funds.

DISPROPORTIONATE SHARE HOSPITAL PAYMENTS REDIRECTED TO MEDICAL SCHOOLS

As shown in the following table, Hershey retained its DSH payments for each year reviewed. Presbyterian and Temple did not retain their DSH payments but redirected them to their associated universities.

Disproportionate Share Hospital Payments (Federal Share)

	State FY 2005–06		State FY 2006–07	
Hospital	**Retained**	**Redirected**	**Retained**	**Redirected**
Hershey	$7,580,729	$0	$7,781,654	$0
Presbyterian	0	9,746,652	0	10,004,984
Temple	0	7,580,729	0	7,781,654
Total	**$7,580,729**	**$17,327,381**	**$7,781,654**	**$17,786,638**

Before July 1, 2005, the State supported medical education through its annual appropriations to the State-related universities. In State FY 2005–06, the State eliminated express appropriations for medical education from its appropriation bills. The appropriation bills for State FYs 2006–07 and 2007–08 also did not contain funding expressly for medical education. Officials of the three hospitals informed us that the State had instructed the hospitals to redirect the DSH funds provided under the SPAs, including Federal matching funds, to the associated universities.

Presbyterian

Based on the methodology in the SPAs, DSH payments to Presbyterian were $17,804,000 ($9,746,652 Federal share) in State FY 2005–06 and $18,339,261 ($10,004,984 Federal share) in State FY 2006–07. As instructed by the State, Presbyterian redirected the DSH payments authorized by the two SPAs to its associated School of Medicine, School of Dental Medicine, Graduate School of Public Health, and Western Psychiatric Institute and Clinic. Presbyterian recorded its transactions as contributions, which are not costs incurred by the hospital as required by the State plan. Presbyterian did not require the schools to account for how they used the funds.

Temple

Based on the methodology in the SPAs, DSH payments to Temple were $13,847,555 ($7,580,729 Federal share) in State FY 2005–06 and $14,263,869 ($7,781,654 Federal share) in State FY 2006–07. As instructed by the State, Temple redirected the DSH payments authorized by the two SPAs to its associated School of Medicine, Maurice H. Kornberg School of Dentistry, and School of Podiatric Medicine. Temple recorded its transactions as equity transfers, which are not costs incurred by the hospital as required by the State plan. Temple did not require the schools to account for how they used the funds.

ACTIONS TAKEN BY THE CENTERS FOR MEDICARE & MEDICAID SERVICES

On September 27, 2007, the State agency submitted SPA 07-017 for State FY 2007–08. The SPA estimated $47.1 million ($25.5 million Federal share) in DSH payments for that FY. The SPA required that DSH payments be used to offset medical education costs and did not authorize any other use of the funds.

On October 18, 2007, we informed the CMS regional office that the DSH payments for State FY 2005–06 did not exceed the hospital-specific limits. We also informed the regional office that the State had instructed the three hospitals to redirect DSH payments to university medical schools.

CMS regional officials stated that they were unaware of the State's instructions to the three hospitals. As a result of our discussions, CMS headquarters officials presented the standard National Institutional Reimbursement Team (NIRT) questions to the State agency, questioning the intended use of funds authorized by the pending SPA.[3] CMS's review procedures include requesting responses to five standard funding questions, which begin:

> 1. Section 1903(a)(1) provides that Federal matching funds are only available for expenditures made by States for services under the approved State plan. Do providers retain all of the Medicaid payments including the Federal and State share . . . or is any portion of the payments returned to the State, local governmental entity, or any other intermediary organization? If providers are required to return any portion of payments, please provide a full description of the repayment process . . . and the disposition and use of the funds once they are returned to the State . . . .[4]

CMS advised us that it was awaiting the State agency's responses to the funding questions before making a determination on the SPA.[5] In a follow-up telephone conversation on May 30, 2008, CMS stated that it had received the State agency's responses, but CMS declined to discuss the responses or its determination on the SPA until it received our draft report. Subsequent to our draft report, CMS advised us that it had approved the SPA.

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[3]NIRT is composed of individuals from CMS's central and regional offices who review and recommend decisions on all Medicaid institutional reimbursement SPAs. NIRT reports its recommendations to the Director of the Center for Medicaid and State Operations, who has final authority to approve the SPAs.

[4]"Standard Funding Questions—Updated 9/30/05." Internal document from CMS regional office. Attachment to "Funding Questions," e-mail message, November 30, 2007.

[5]"PA-SPA 07-017," CMS, e-mail message, April 3, 2008.

RECOMMENDATIONS

We recommend that the State agency work with CMS to resolve:

- $17,327,381 (Federal share) in DSH payments redirected to university medical schools in State FY 2005–06 and $17,786,638 (Federal share) in State FY 2006–07 and

- DSH payments redirected to university medical schools after our review period, including any portion of the $25.5 million estimated Federal share for State FY 2007–08.

STATE AGENCY COMMENTS

In written comments on our draft report, the State agency said that CMS had approved the SPAs for State FYs 2005–06, 2006–07, and 2007–08. The State agency agreed to work with CMS on any future academic medical center SPAs but said that it was not aware of any Federal regulation or legislation that requires the three hospitals to retain their DSH payments. The State agency's comments are presented in their entirety as the Appendix.

OFFICE OF INSPECTOR GENERAL RESPONSE

The SPAs for State FYs 2005–06 and 2006–07 stated that DSH payments were to be used to offset hospital medical education costs and did not authorize any other use of DSH funds. Because Presbyterian and Temple did not require the medical schools to account for how they used the funds, we could not determine whether the DSH funds were used in compliance with the SPAs. We revised our second recommendation to acknowledge CMS's approval of the SPA for State FY 2007–08 subsequent to our review. We support our recommendations, as revised, and agree that the State agency should work with CMS on any future academic medical center SPAs.

APPENDIX

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF PUBLIC WELFARE
P.O. BOX 2675
HARRISBURG, PENNSYLVANIA 17105-2675

Theodore Dallas
Executive Deputy Secretary

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Mr. Stephen Virbitsky
Regional Inspector General for Audit Services
Department of Health & Human Services
Office of Inspector General
Office of Audit Services, Region III
150 South Independence Mall West, Suite 316
Philadelphia, Pennsylvania 19106-3499

Dear Mr. Virbitsky:

Thank you for your August 14 letter that transmitted the draft report A-03-07-00222 titled "Review of the State Plan Amendment Authorizing Disproportionate Share Hospital Payments by Pennsylvania to Hospitals of State-Related Universities" for State fiscal years 2005-06, 2006-07, and 2007-08.

Pennsylvania submitted a State Plan Amendment (SPA) that authorized Disproportionate Share Hospital (DSH) payments limited to the three hospitals associated with the State-related universities: Temple University Hospital (Temple), Penn State Milton S. Hershey Medical Center (Hershey), and University of Pittsburgh Medical Center – Presbyterian/Shadyside (UPMC). It was determined through this review that Hershey did retain DSH payments; therefore, the findings and recommendations included in the draft report only pertain to Temple and UPMC.

Recommendations: We recommend that the State agency work with CMS to resolve $17,327,381 (Federal share) in State FY 2005-06 and $17,786,638 (Federal share) in State FY 2006-07 for DSH payments redirected to university medical schools. We recommend that the State agency notify CMS whether the State intends to instruct the three hospitals to redirect any portion of the estimated $25.5 million (estimated Federal share) in DSH payments for State FY 2007-08 to their associated university medical schools.

Department of Public Welfare (DPW) Response: The SPAs for State fiscal years 2005-06, 2006-07, and 2007-08 were approved by CMS. The DPW is unaware of any federal regulation or legislation that would require these hospitals to retain their DSH payments, and the Office of Medical Assistance Programs (OMAP) does not have a specific requirement in place for these hospitals to "redirect the DSH funds provided under the SPAs including the Federal matching funds to the associated universities".

Mr. Stephen Virbitsky -2-

The OMAP will work with CMS to resolve any concerns they might have on any future Academic Medical Centers SPAs.

Thank you for the opportunity to respond to this report. If you need any further information, please contact Maranatha E. Earling, Bureau of Financial Operations, Audit Resolution Section, at (717) 772-4911, or via e-mail at mearling@state.pa.us.

Sincerely,

Theodore Dallas

cc: Mr. Michael Nardone
Ms. Brenda Tewell
Ms. Izanne Leonard-Haak
Ms. Leesa Allen
Ms. Laurie Rock
Mr. David Spishock
Mr. Steven Evitts
Mr. Daniel Sharar