Department of Health and Human Services

OFFICE OF INSPECTOR GENERAL

TEXAS DID NOT ALWAYS COMPLY WITH FEDERAL AND STATE REQUIREMENTS REGARDING THE MEDICARE BUY-IN PROGRAM

Inquiries about this report may be addressed to the Office of Public Affairs at Public.Affairs@oig.hhs.gov.

Patricia Wheeler
Regional Inspector General

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Office of Inspector General

http://oig.hhs.gov

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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 Texas, the Health and Human Services Commission (the State agency) is responsible for administering the Medicaid program.

Section 1843 of the Act allows State Medicaid programs to enter into an arrangement with CMS known as the buy-in program. The buy-in program allows participating State Medicaid programs to enroll dual-eligible individuals (beneficiaries eligible for both Medicaid and Medicare) in Medicare Part A or Part B, or both, and pay the monthly premium on behalf of these individuals. Pursuant to section 1634 of the Act, States may enter into an agreement with the Social Security Administration (SSA) that allows CMS to enroll individuals in a State's buy-in program based on their eligibility to receive Supplemental Security Income (SSI). According to the CMS *State Buy-In Manual*, once an individual is considered eligible for the buy-in program, the State has the responsibility to ensure continued eligibility.

States are eligible to receive Federal financial participation to assist in paying Part A and Part B premiums for individuals in eligible buy-in categories. State agencies report expenditures for the Medicare premiums and the applicable Federal medical assistance percentage on the Form CMS-64, Quarterly Medicaid Statement of Expenditures for the Medical Assistance Program.

The State agency claimed approximately $834 million (approximately $581 million Federal share) for Medicare Part A and Part B premiums paid under the buy-in program during fiscal year 2009 (October 1, 2008, through September 30, 2009).

OBJECTIVE

Our objective was to determine whether the State agency claimed Medicare Part A and Part B premiums it paid on behalf of eligible individuals under the buy-in program in accordance with Federal and State requirements.

SUMMARY OF FINDINGS

The State agency did not always claim Medicare premiums it paid on behalf of eligible individuals enrolled in the buy-in program in accordance with Federal and State requirements. In addition, the State agency did not periodically review the status of individuals who received SSI and were enrolled in the buy-in program by CMS to confirm their continued eligibility.

Of the 100 Medicare Part A and 100 Medicare Part B buy-in payments we sampled, 52 were made for individuals the State agency enrolled. Of these 52 payments, 47 were made on behalf

of individuals who were eligible for the program. However, five payments were made on behalf of individuals who were not eligible because their income or resources exceeded levels the State agency established or because the State agency could not provide documentation supporting eligibility. Because these five errors did not meet the minimum number of errors required by our policy on projecting results to the population, we did not estimate an overpayment amount.

The State agency made the remaining 148 payments for individuals who qualified for SSI and thus were automatically enrolled in the buy-in program by CMS. However, the State agency did not periodically review the documentation for individuals who CMS automatically enrolls in the buy-in program to ensure continued eligibility. Because SSA maintained the income and resource information on these individuals, we did not have access to their records and therefore could not confirm their eligibility based on SSA's information. However, we confirmed through other sources the eligibility of nearly all individuals associated with the 148 payments based on income.

RECOMMENDATIONS

We recommend that the State agency:

- improve its policies and procedures to ensure that all income and resource information is maintained and reviewed in accordance with the State's buy-in program requirements when making eligibility determinations and

- periodically review the documentation for individuals who CMS automatically enrolls in the buy-in program to ensure their continued eligibility.

STATE AGENCY COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE

In written comments on our draft report, the State agency agreed with our first recommendation but disagreed with our second recommendation, stating that HHSC review or oversight of SSA and CMS determinations would be inconsistent with an agreement it has with SSA and CMS and a duplication of existing SSA eligibility determination processes. The State agency's comments are included in their entirety as the Appendix.

We maintain that the State agency should periodically review the eligibility of individuals who CMS automatically enrolls in the buy-in program in accordance with Federal and State regulations. Nothing in the State agency's comments caused us to revise the finding or recommendation with which the State agency disagreed.

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INTRODUCTION

BACKGROUND

Medicaid 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 Texas, the Health and Human Services Commission (the State agency) is responsible for administering the Medicaid program.

Medicaid's Role in Medicare Part A and Part B Buy-In

Section 1843 of the Act allows State Medicaid programs to enter into an arrangement with CMS known as the buy-in program. The buy-in program allows participating State Medicaid programs to enroll dual-eligible individuals (beneficiaries eligible for both Medicaid and Medicare because they have low incomes and are either elderly or disabled) in Medicare Part A or Part B, or both, and pay their monthly premiums.

A State may claim Federal reimbursement for the Part A and Part B premiums paid on behalf of an individual who meets the eligibility requirements for at least one of the following specified categories: qualified Medicare beneficiary (QMB), specified low-income Medicare beneficiary (SLMB), or qualifying individual (QI).

Pursuant to sections 1902(a)(10)(E) and 1905(p)(1) and (2) of the Act, the eligibility requirements for QMBs, SLMBs, and QIs are as follows:

- QMB: An eligible individual is entitled to Medicare Part A benefits, has income that does not exceed 100 percent of the Federal poverty level, and has resources that do not exceed twice the limit for SSI eligibility.

- SLMB: An eligible individual is entitled to the Part A benefit, has income above 100 percent but less than 120 percent of the Federal poverty level, and has resources that do not exceed twice the limit for SSI eligibility.

- QI: An eligible individual is entitled to Part A benefits, has income of at least 120 percent but less than 135 percent of the Federal poverty level, has resources that do not exceed twice the limit for SSI eligibility, and cannot be eligible for regular Medicaid and QI coverage at the same time.

The State of Texas has adopted the Federal income and resource limits for determining eligibility for the buy-in program for each of the specified categories. The monthly Medicare Part A and Part B premiums that States pay on behalf of certain groups of individuals enrolled under the State buy-in program agreements are reimbursable under Medicaid at the Federal medical assistance percentage (FMAP). State agencies report expenditures for the Medicare premiums and the applicable FMAP on the Form CMS-64, Quarterly Medicaid Statement of Expenditures for the Medical Assistance Program (Form CMS-64).

The State agency claimed approximately $834 million (approximately $581 million Federal share) for Medicare Part A and Part B premiums paid under the buy-in program during fiscal year (FY) 2009 (October 1, 2008, through September 30, 2009).

Social Security's Role in Medicare Part A and Part B Buy-In

Pursuant to section 1634 of the Act, States may enter into an agreement with the Social Security Administration (SSA) that allows CMS to enroll individuals in a State's buy-in program based on their eligibility to receive Supplemental Security Income (SSI). Each month, SSA transmits data records for SSI recipients to the CMS buy-in system. Based on information contained in the data records, CMS automatically adds or removes individuals from the buy-in system. According to the CMS *State Buy-In Manual*, States are responsible for checking the data records to verify whether individuals enrolled in their buy-in programs continue to be eligible.

OBJECTIVE, SCOPE, AND METHODOLOGY

Objective

Our objective was to determine whether the State agency claimed Medicare Part A and Part B premiums it paid on behalf of eligible individuals under the buy-in program in accordance with Federal and State requirements.

Scope

Our samples consisted of 100 Medicare Part A and 100 Medicare Part B individual monthly buy-in payments claimed by the State agency from October 1, 2008, through September 30, 2009. CMS enrolled 95 of the individuals related to the 100 Part A sample payments and 53 of the individuals related to the 100 Part B sample payments based on their eligibility to receive SSI. Because CMS enrolled these individuals, we did not have access to their income and resource information and therefore could not confirm their eligibility based on that information. However, we confirmed, based on income, the eligibility of nearly all individuals associated with the 148 payments through either the Wire-to-Wire Third Party Query System, an income verification system the State uses, or the Texas Workforce Commission.

Our objective did not require us to review the State agency's overall internal control structure. We limited our review to obtaining an understanding of the State agency's procedures for

identifying and reporting to CMS individuals in eligible buy-in categories and for recording and paying Medicare premiums as claimed by the State agency.

We conducted our fieldwork at the State agency in Austin, Texas.

Methodology

To accomplish our objective we:

- reviewed Federal and State laws, regulations, and policies and procedures related to the buy-in program, including the CMS *Buy-In Program Manual*, Texas' buy-in program agreements, and the *Medicaid for the Elderly and People with Disabilities Handbook*;

- interviewed personnel from CMS, SSA, and the State agency;

- obtained and compared CMS's monthly Summary Accounting Statements (billing notices) for Part A and Part B premiums from October 1, 2008, through September 30, 2009, and reconciled the totals to the amounts the State agency claimed during the same period on the Form CMS-64;

- identified sampling frames of individuals who were included in the Medicaid buy-in of Medicare Part A and Part B premiums during the audit period;

- selected a simple random sample of 100 individuals from each sampling frame using the Office of Inspector General, Office of Audit Services, statistical software to generate a set of random numbers; and

- verified individual income through the Wire-to-Wire Third Party Query System or the Texas Workforce Commission.

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 findings and conclusions based on our audit objective.

FINDINGS AND RECOMMENDATIONS

The State agency did not always claim Medicare premiums it paid on behalf of eligible individuals enrolled in the buy-in program in accordance with Federal and State requirements. In addition, the State agency did not periodically review the status of individuals who received SSI and were enrolled in the buy-in program by CMS to confirm their continued eligibility.

Of the 100 Medicare Part A and 100 Medicare Part B buy-in payments we sampled, 52 were made for individuals the State agency enrolled. Of these 52 payments, 47 were made on behalf of individuals who were eligible for the program. However, five payments were made on behalf

of individuals who were not eligible because their income or resources exceeded levels the State agency established or because the State agency could not provide documentation supporting eligibility. Because these five errors did not meet the minimum number of errors required by our policy on projecting results to the population, we did not estimate an overpayment amount.

The State agency made the remaining 148 payments for individuals who qualified for SSI and thus were automatically enrolled in the buy-in program by CMS. However, the State agency did not periodically review the documentation for individuals who CMS automatically enrolls in the buy-in program to ensure continued eligibility. Because SSA maintained the income and resource information on these individuals, we did not have access to their records and therefore could not confirm their eligibility based on SSA's information. However, we confirmed through other sources the eligibility of nearly all individuals associated with the 148 payments based on income.

FEDERAL AND STATE REGULATIONS

Pursuant to 42 U.S.C. § 1396(d), individuals may not obtain benefits under the buy-in program if their income and resources exceed the levels established by the State. Also, pursuant to 42 CFR § 435.913(a), the State must include documentation to support its decisions on the applications individuals submit to enroll in the program.

According to Texas Human Resources Code section 32.0243, the State agency should periodically review the eligibility of a recipient of medical assistance who is eligible based on the recipient's eligibility for SSI. In reviewing eligibility, the State agency should ensure that only individuals who reside in this State and who continue to be eligible for SSI remain eligible for medical assistance.

UNALLOWABLE BUY-IN PAYMENTS

The State agency made five unallowable buy-in payments. Of the five, three were unallowable because the payments were for individuals whose incomes, which ranged from $1,215 to $1,951 per month, exceeded category limits (i.e., limits on income based on whether the income is for an individual or a couple) established by the State. One payment was unallowable because it was made on behalf of an individual whose resources, which included property valued at $4,980, exceeded limits established by the State. One payment was unallowable because it was made on behalf of an individual for whom the State could not provide supporting documentation of eligibility.

The income and resource information for four of the individuals was available in their case files; however, the caseworker overlooked it when reviewing the files to determine the individuals' eligibility. For the fifth unallowable payment, the State agency was unable to locate the case file supporting the State agency's buy-in payment for this individual.

THE STATE AGENCY DID NOT CONFIRM THE ELIGIBILITY OF INDIVIDUALS RECEIVING SUPPLEMENTAL SECURITY INCOME AND ENROLLED BY THE CENTERS FOR MEDICARE & MEDICAID SERVICES

The State agency did not maintain documentation of periodic reviews to determine whether the 148 individuals CMS automatically enrolled in the buy-in program continued to be eligible. A State agency official said that the State agency relied on SSA to periodically review the eligibility of individuals who received SSI and who CMS automatically enrolled in the State's buy-in program. The official added that the income and resource limits placed on individuals who qualified for SSI were much lower than the income and resource limits placed on individuals who qualified for the State's buy-in program. Thus, individuals who qualified for SSI should have qualified for the State's buy-in program upon enrollment. However, because the State relied on SSA to perform periodic reviews to determine the eligibility of these individuals, the State was at risk of making payments for individuals who were no longer eligible for the buy-in program in Texas (i.e., individuals who may have qualified for SSI but had moved out of Texas).

RECOMMENDATIONS

We recommend that the State agency:

- improve its policies and procedures to ensure that all income and resource information is maintained and reviewed in accordance with the State's buy-in program requirements when making eligibility determinations and

- periodically review the documentation for individuals who CMS automatically enrolls in the buy-in program to ensure their continued eligibility.

STATE AGENCY COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE

In written comments on our draft report, the State agency agreed with our first recommendation but disagreed with our second recommendation, stating that HHSC review or oversight of SSA and CMS determinations would be inconsistent with an agreement it has with SSA and CMS and a duplication of existing SSA eligibility determination processes. The State agency's comments are included in their entirety as the Appendix.

We maintain that the State agency should periodically review the eligibility of individuals who CMS automatically enrolls in the buy-in program in accordance with Federal and State regulations. Nothing in the State agency's comments caused us to revise the finding or recommendation with which the State agency disagreed.

APPENDIX

APPENDIX: STATE AGENCY COMMENTS

TEXAS HEALTH AND HUMAN SERVICES COMMISSION

THOMAS M. SUEHS
EXECUTIVE COMMISSIONER

July 19, 2012

Ms. Patricia Wheeler
Regional Inspector General for Audit Services
Office of Inspector General, Office of Audit Services
1100 Commerce, Room 632
Dallas, Texas 75242

Reference Report Number A-06-10-00070

Dear Ms. Wheeler:

The Texas Health and Human Services Commission (HHSC) received a draft audit report entitled "Texas Did Not Always Comply With Federal and State Requirements Regarding the Medicare Buy-In Program" from the Department of Health and Human Services Office of Inspector General (DHHS-OIG). The cover letter, dated June 19, 2012, requested HHSC provide written comments, including the status of actions taken or planned in response to the report recommendations.

The report identified recommendations for HHSC to consider including (1) improvements to eligibility determination policies and procedures to ensure all information is maintained and reviewed in accordance with requirements and (2) implementing periodic reviews of CMS enrolled individuals to ensure their continued eligibility.

This management response includes comments related to the recommendations and details related to actions HHSC has completed or planned. Responses to the audit recommendations follow.

DHHS-OIG Recommendation:

We recommend that the State agency improve its policies and procedures to ensure that all income and resource information is maintained and reviewed in accordance with the State's buy-in program requirements when making eligibility determinations

HHSC Management Response

HHSC recently completed the Texas Integrated Eligibility and Referral System (TIERS) statewide eligibility system and process conversion from the legacy system. The conversion into TIERS was fully completed in December 2011 and allows for improved maintenance of income and resource supporting documentation. TIERS data entry training also emphasizes the importance of accurate input and appropriate support for eligibility determination.

Staff training curriculum and materials covering income and resource documentation requirements for the buy-in program have been reviewed and strengthened. Beginning in April 2012, ongoing case monitoring reviews incorporated buy-in program income and resource elements and documentation to ensure documentation is maintained to support eligibility determinations for all programs.

DHHS-OIG Recommendation:

We recommend that the State agency periodically review the documentation for individuals who CMS automatically enrolls in the buy-in program to ensure their continued eligibility.

HHSC Management Response

Buy-in program eligibility determinations are governed by an agreement with the Social Security Administration (SSA) and with CMS. Under this agreement, CMS enrolls individuals in the state buy-in program based on their eligibility to receive Supplemental Security Income (SSI) benefits through SSA. SSI eligibility determinations and redeterminations by SSA are reviewed and transmitted electronically by CMS and based on this information, HHSC enrolls or may dis-enroll clients from the buy-in program in accordance with the agreement. Income and resource eligibility limits for SSI program eligibility are well below the limits established for buy-in program eligibility. Thus, in accordance with the agreement, HHSC relies on these SSA eligibility determinations as the basis for enrolling or dis-enrolling SSI clients from the buy-in program. Periodic HHSC review or oversight, as suggested by the auditors, of SSA and CMS determinations and redeterminations is inconsistent with the terms of the SSA agreement and a duplication of existing SSA eligibility determination processes. HHSC will continue to operate in accordance with the SSA agreement and will accept eligibility determinations and redeterminations provided by CMS for the buy-in program.

If you have any questions or require additional information, please contact David M. Griffith, HHSC Internal Audit Director. Mr. Griffith may be reached by telephone at (512) 424-6998 or by e-mail at David.Griffith@hhsc.state.tx.us.

Sincerely,

Thomas M. Suehs