Department of Health and Human Services

OFFICE OF
INSPECTOR GENERAL

MARYLAND WITHDREW EXCESSIVE FEDERAL MEDICAID FUNDS FOR FISCAL YEARS 2009 THROUGH 2011

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

Daniel R. Levinson
Inspector General

December 2013
A-06-12-00051

Office of Inspector General

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EXECUTIVE SUMMARY

For Federal fiscal years 2009 through 2011, Maryland obtained $115.3 million more in Federal funds than it expended.

WHY WE DID THIS REVIEW

To fund their Medicaid programs, States receive Federal grant awards that pay for the Federal share of their Medicaid medical and administrative expenditures. An external audit of the Federal fiscal year (FY) 2011 financial statements for the Centers for Medicare & Medicaid Services (CMS) determined that State Medicaid programs owed $1.3 billion to the Federal Government. We conducted an audit of Maryland because it had one of the highest amounts owed to the Federal Government. This is part of a series of reviews related to States' Federal Medicaid withdrawals.

The objective of this review was to determine whether Federal Medicaid funds that the Maryland Department of Health and Mental Hygiene (State agency) obtained for FYs 2009 through 2011 were supported by net expenditures.

BACKGROUND

Before the beginning of each quarter, States estimate their medical and administrative expenditures. CMS uses the estimates to determine the initial grant awards, which are the Federal fund amounts that will be available to States during the quarter. If a State underestimates the amount of funds it will need during a quarter, it may request additional funds through a supplemental grant award.

The Payment Management System (PMS) is used to account for Medicaid financial activity. Throughout a quarter, States withdraw Federal funds from the PMS accounts to pay the Federal share of medical and administrative expenditures. After the end of each quarter, States report expenditures and the associated Federal share on the Quarterly Medicaid Statement of Expenditures for the Medical Assistance Program (CMS-64 report). CMS calculates a finalized grant award amount for each State by comparing the initial and supplemental grant awards for the quarter to both the expenditures reported on the CMS-64 report and adjustments to those expenditures that were not included on the CMS-64 report.

After each quarter, the State agency performs a reconciliation to compare the total Federal funds withdrawn according to its internal records with the Federal share of expenditures reported on the CMS-64 report and identifies any differences. If total Federal funds withdrawn are less than expenditures, the State agency increases a future withdrawal. Conversely, if total Federal funds withdrawn exceed expenditures, the State agency reduces a future withdrawal by the difference.

WHAT WE FOUND

The State agency obtained Federal Medicaid funds for FYs 2009 through 2011 that were not supported by net expenditures. The State agency obtained $12,882,585,330 in Federal Medicaid funds, but CMS awarded the State agency only $12,767,253,668 for Medicaid expenditures. The State agency inappropriately withdrew the difference of $115,331,662, consisting of:

- $116,726,613 that the State agency inappropriately withdrew from FY 2012 grant award funds because of errors that occurred during its quarterly reconciliations for FYs 2009 through 2011 and

- $1,394,951 owed to the State agency because it mistakenly returned more funds than necessary in an FY 2011 account that was originally overdrawn.

Additionally, the State agency did not always withdraw Federal funds from the appropriate PMS accounts because of fund deficiencies, a faulty procedure, and other errors. The withdrawals caused the balances in the accounts to be wrong.

WHAT WE RECOMMEND

We recommend that the State agency:

- refund $115,331,662 to the Federal Government,

- ensure that the amounts used in its quarterly reconciliations are accurate and that it makes reconciliation adjustments to return or obtain Federal funds,

- establish procedures in its quarterly reconciliations to account for adjustments to expenditures not included on the CMS-64 report but that affect the State agency's grant award amounts,

- monitor PMS accounts to anticipate fund deficiencies and determine whether to refund overdrawn amounts or to request a supplemental grant award, and

- ensure that it withdraws funds from the appropriate PMS account.

STATE AGENCY COMMENTS

The State agency concurred with all of our recommendations.

TABLE OF CONTENTS

INTRODUCTION

WHY WE DID THIS REVIEW

To fund their Medicaid programs, States receive Federal grant awards that pay for the Federal share of their Medicaid medical and administrative expenditures. Before Federal fiscal year (FY) 2010, States had grant award accounts that combined the Medicaid funds from every year. Consequently, yearly balances were not distinguished. Beginning in FY 2010, the Centers for Medicare & Medicaid Services (CMS) implemented annualized accounts for grant awards that had beginning and ending balances to improve the transparency of Medicaid funding. As a part of the CMS Financial Report FY 2011, an external audit of CMS's financial statements determined that State Medicaid programs owed $1.3 billion to the Federal Government.[1] We conducted an audit of Maryland because it had one of the highest balances owed to the Federal Government. This is part of a series of reviews related to States' Federal Medicaid withdrawals.

OBJECTIVE

Our objective was to determine whether Federal Medicaid funds that the Maryland Department of Health and Mental Hygiene (State agency) obtained for FYs 2009 through 2011 were supported by net expenditures.

BACKGROUND

Medicaid Program

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, CMS administers the program. Each State administers its Medicaid program in accordance with a CMS-approved State plan. In Maryland, the State agency administers the Medicaid program. Although the State agency has considerable flexibility in designing and operating its Medicaid program, it must comply with applicable Federal requirements.

Medicaid Funding Process

Before the beginning of each quarter, States estimate their medical and administrative expenditures and report the estimates to CMS on the quarterly Medicaid Program Budget Report (CMS-37 report). CMS uses the estimates in that report to determine the initial grant awards, which are the Federal fund amounts that will be available to States during the quarter. If a State underestimates the amount of funds it will need during a quarter, it may request additional funds by submitting a revised CMS-37 report. The resulting increase in Federal funds is known as a supplemental grant award.

CMS provides the grant award amounts to the Division of Payment Management (DPM), a division within the Department of Health and Human Services, which operates as CMS's fiscal

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[1] CMS, *CMS Financial Report Fiscal Year 2011*, Financial Section, Audit Reports, page 121.

intermediary. DPM uses the Payment Management System (PMS) to account for Medicaid financial activity, such as recording grant award amounts and processing the States' withdrawals. Beginning in FY 2010, CMS implemented annualized PMS accounts for the grant awards. As a result, each State has PMS accounts for each FY rather than combining the funds for multiple FYs.

Throughout a quarter, States withdraw Federal funds from the PMS accounts to pay the Federal share of medical and administrative expenditures. Within 30 days after the end of each quarter, States report to CMS expenditures and the associated Federal share on the Quarterly Medicaid Statement of Expenditures for the Medical Assistance Program (CMS-64 report). The amounts that States report must represent actual expenditures.

CMS calculates a finalized grant award amount for each State by comparing the initial and supplemental grant awards for the quarter with expenditures reported on the CMS-64 report. CMS also includes in its calculation adjustments to expenditures that were not included on the CMS-64 report, such as interest due to CMS and expenditures that CMS disallowed. If a State's initial and supplemental grant awards are less than its expenditures, CMS increases the State's grant award. Conversely, if a State's initial and supplemental grant awards exceed its expenditures, CMS decreases the State's grant award by the difference.

The State Agency's Quarterly Reconciliations

After each quarter, the State agency's finance department compares the total Federal funds withdrawn according to its internal records with the Federal share of expenditures reported on the CMS-64 report and identifies any differences. The finance department provides the results of this reconciliation to the State agency's accounting department. If total Federal funds withdrawn are less than expenditures, the accounting department increases a future withdrawal to obtain the difference. Conversely, if total Federal funds withdrawn exceed expenditures, the accounting department reduces a future withdrawal to return the difference.

HOW WE CONDUCTED THIS REVIEW

The State agency obtained $12,882,585,330 in Federal Medicaid funds for FYs 2009 through 2011 (i.e., October 1, 2008, through September 30, 2011). We compared the amounts that the State agency withdrew with the final amounts that CMS awarded for expenditures and reviewed the State agency's quarterly reconciliations.

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 objectives.

Appendix A contains the details of our audit scope and methodology.

FINDINGS

The State agency obtained Federal Medicaid funds for FYs 2009 through 2011 that were not supported by net expenditures. The State agency obtained $12,882,585,330 in Federal Medicaid funds, but CMS awarded the State agency only $12,767,253,668 for Medicaid expenditures. The State agency inappropriately withdrew the difference of $115,331,662, consisting of:

- $116,726,613 that the State agency inappropriately withdrew from FY 2012 grant award funds because of errors that occurred during its quarterly reconciliations for FYs 2009 through 2011 and
- $1,394,951 owed to the State agency because it mistakenly returned more funds than necessary in an FY 2011 account that was originally overdrawn.

Additionally, the State agency did not withdraw Federal funds from the appropriate PMS accounts because of fund deficiencies, a faulty procedure, and other errors. The withdrawals caused the balances in the accounts to be wrong.

THE STATE AGENCY MADE ERRORS DURING ITS QUARTERLY RECONCILIATIONS

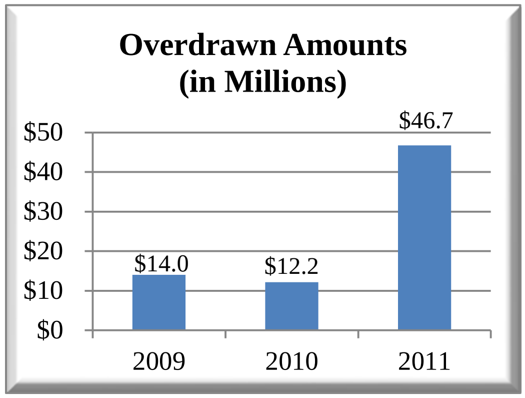
Sections 1903(a)(1) and (a)(7) of the Social Security Act make Federal financial participation available only for the total amount expended as medical assistance and for the proper and efficient administration of a CMS-approved State plan. Additionally, 42 CFR § 430.30(d)(3) authorizes the State to withdraw Federal funds as needed to pay the Federal share of Medicaid disbursements.

The State agency withdrew $116,726,613 from FY 2012 grant award funds that were not needed to pay the Federal share of Medicaid disbursements. These inappropriate withdrawals occurred because of errors that the State agency made during its quarterly reconciliations for FYs 2009 through 2011, consisting of:

- $72,860,327 because the State agency did not accurately adjust future withdrawals based on its reconciliation differences,
- $29,303,063 because the State agency made miscellaneous errors when compiling the amounts used in its reconciliations, and
- $14,563,223 because the State agency did not account for adjustments to expenditures that were not included on the CMS-64 report.

The State Agency Did Not Accurately Adjust Future Withdrawals Based on Its Reconciliation Differences

In 8 of the 12 quarters, the State agency did not accurately adjust future withdrawals based on quarterly reconciliation differences between what it withdrew and what it reported in expenditures. As a result, it withdrew a total of $72,860,327 more in Federal funding than was needed to pay the Federal share of Medicaid disbursements. The following graph shows, by year, the Federal funding the State agency did not return.



A State agency official explained that State agency staff did not accurately adjust future withdrawals because of human errors, such as increasing rather than decreasing Federal funds by the adjustment amount, incorrectly combining amounts, and accidentally omitting adjustments. Although the State agency's procedures called for review of the reconciliations and adjustments, the errors went undetected.

The State Agency Made Miscellaneous Errors

In various quarters, the State agency made miscellaneous errors when compiling the amounts used in its reconciliations, which resulted in a total overdrawn amount of $29,303,063 that was not needed to pay the Federal share of Medicaid disbursements. A State agency official explained that these miscellaneous errors resulted from miscalculations, formula errors, and reliance on amounts from the State agency's internal reports of Federal funds withdrawn rather than the actual amounts from the PMS. Although the State agency's procedures called for review of the reconciliations and adjustments, the errors went undetected.

See Appendix B for detailed information about each miscellaneous error.

The State Agency Did Not Account for Adjustments to Expenditures

The State agency's reconciliation process did not account for adjustments that CMS made to the State agency's expenditures (e.g., interest due to CMS and expenditures that CMS disallowed), which reduced the State agency's finalized grant awards by $14,563,223. These adjustments were not captured on the CMS-64 reports. Thus, the $14,563,223 in Federal funds was not needed to pay the Federal share of Medicaid disbursements. Because the State agency's reconciliation procedure only involved comparing the amount of Federal funds withdrawn with the Federal share of expenditures reported on the CMS-64 report, the State agency did not include CMS's adjustments in its quarterly reconciliations.

THE STATE AGENCY RETURNED MORE FEDERAL FUNDS THAN NECESSARY TO AN ACCOUNT

Sections 1903(a)(1) and (a)(7) of the Social Security Act make Federal financial participation available only for the total amount expended as medical assistance and for the proper and efficient administration of a CMS-approved State plan. Additionally, 42 CFR § 430.30(d)(3) authorizes the State to withdraw Federal funds as needed to pay the Federal share of Medicaid disbursements.

The State agency returned $1,394,951 more than necessary to an account that was originally overdrawn. An FY 2011 account for funding under the American Recovery and Reinvestment Act of 2009 had an ending balance of $3,490,500 owed to the Federal Government.[2] However, the State agency paid back $4,885,451. State agency officials could not explain why more funds were paid back than owed.

THE STATE AGENCY DID NOT WITHDRAW FEDERAL FUNDS FROM THE APPROPRIATE ACCOUNTS

Section 2600.E of the CMS *State Medicaid Manual* states that, if the estimates originally submitted for the current quarter are lower than the amount required as the quarter progresses, the State agency should notify CMS and prepare a request for a supplemental grant award no later than 10 calendar days before the end of the quarter.

The State agency did not always withdraw funds from the appropriate PMS accounts because of fund deficiencies, a faulty procedure, and other errors. On multiple occasions, the State agency withdrew Federal funds from one year's account to pay for a different year's expenditures. For example, the State agency withdrew $152,205,904 from a 2011 account to overcome a 2010 fund deficiency. The State agency did not have procedures for monitoring its PMS accounts to anticipate fund deficiencies or for requesting supplemental grant awards. If the State agency underestimates the amount required for a quarter's expenditures, the State should notify CMS and prepare a request for a supplemental grant award. Although the withdrawals caused the account balances to be wrong, they did not result in monetary effects because the expenditures were simply misclassified.

RECOMMENDATIONS

We recommend that the State agency:

- refund $115,331,662 to the Federal Government,

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[2] The American Recovery and Reinvestment Act of 2009 (P.L. No. 111-5), enacted February 17, 2009, provided fiscal relief to States to protect and maintain State Medicaid programs in the recession adjustment period (October 1, 2008, through December 31, 2010). The Education, Jobs, and Medicaid Assistance Act (P.L. No. 111-226, § 201) extended the recession adjustment period through June 30, 2011.

- ensure that the amounts used in its quarterly reconciliations are accurate and that it makes reconciliation adjustments to return or obtain Federal funds,

- establish procedures in its quarterly reconciliations to account for adjustments to expenditures not included on the CMS-64 report but that affect the State agency's grant award amounts,

- monitor PMS accounts to anticipate fund deficiencies and determine whether to refund overdrawn amounts or to request a supplemental grant award, and

- ensure that it withdraws funds from the appropriate PMS account.

STATE AGENCY COMMENTS AND OUR RESPONSE

The State agency concurred with all of our recommendations and described corrective actions that it had taken or planned to take.

Although the State agency concurred with our recommendations, it requested that we change the title of our report. The State agency is concerned that our title implies that Maryland acted in pursuit of excessive Federal funds. We do not believe our title suggests, nor did we find, that Maryland intended to withdraw excessive funds. Therefore, we have decided not to change the title.

The State agency's comments appear in their entirety as Appendix C.

APPENDIX A: AUDIT SCOPE AND METHODOLOGY

SCOPE

The State agency obtained $12,882,585,330 in Federal Medicaid funds for FYs 2009 through 2011 (i.e., October 1, 2008, through September 30, 2011).

We limited our review of supporting documentation to records supporting the State agency's withdrawing of Federal funds; we did not evaluate the accuracy of the expenditures that the State agency reported on its CMS-64 report. Our objective did not require a review of the overall internal control structure of the State agency. Therefore, we limited our internal control review to the State agency's procedures for withdrawing Federal Medicaid funds.

We conducted fieldwork at the State agency's offices in Baltimore, Maryland, from August 2012 to February 2013.

METHODOLOGY

To accomplish our objective, we:

- reviewed applicable Federal laws and regulations;
- held discussions with CMS officials to gain an understanding of CMS guidance furnished to the State agency concerning the withdrawing of Federal funds;
- interviewed State agency officials to obtain an understanding of the State agency's policies and procedures for withdrawing Federal funds;
- analyzed the State agency's procedures for conducting quarterly reconciliations and reviewed those reconciliations;
- obtained and analyzed the PMS account detail, including grant award amounts and actual withdrawals that the State agency made;
- compared the grant award amounts in the PMS for each quarter with Medicaid grant award documents to ensure the accuracy of the PMS data;
- traced the amounts that CMS used to calculate the final grant award amounts for each quarter to the CMS-64 report;
- compared the State agency's documentation supporting its Federal Medicaid fund withdrawals to the withdrawals in the PMS; and
- discussed our results with the State agency.

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 objectives.

APPENDIX B: MISCELLANEOUS ERRORS ON THE STATE AGENCY'S QUARTERLY RECONCILIATIONS

In various quarters, the State agency made miscellaneous errors when compiling the amounts used in its reconciliations. Those errors resulted in a total overdrawn amount of $29,303,063 that was not needed to pay the Federal share of Medicaid disbursements. The table below lists the types of miscellaneous errors and their effects, and more detailed explanations follow the table.

Miscellaneous Errors on the State Agency's Quarterly Reconciliations

Error	Amount[3]
Incorrectly included expenditures from another federally funded program	$36,250,169
Amount withdrawn and returned twice	(7,605,738)
Omitted amount from Federal funds withdrawn	3,014,904
Excluded Medicaid expenditures	(2,571,213)
Used amounts on internal reports instead of actual amounts for Federal funds withdrawn	214,941
Total	**$29,303,063**

Incorrectly Included Expenditures From Another Federally Funded Program

In its reconciliation for the quarter ended December 31, 2009, the State agency incorrectly included with its Medicaid expenditures $36,250,169 of expenditures from another federally funded program. This caused the State agency to understate the amount of funds that it owed. A State agency official explained that the State agency included non-Medicaid expenditures because of human error.

Amount Withdrawn and Returned Twice

For the quarter ended September 30, 2010, the State agency withdrew $7,605,738 twice. The State agency identified the error but returned the money twice. As a result, the State agency did not obtain the funding that it was owed. A State agency official explained that the duplicated return occurred because of human error.

Omitted Amount From Federal Funds Withdrawn

In its reconciliation for the quarter ended March 31, 2010, the State agency omitted $3,014,904 when it calculated the total amount of Federal funds withdrawn. As a result, the State agency

[3] Amounts shown in parentheses represent money owed to the State agency.

returned less money than it owed for the quarter. The State agency official explained that this omission occurred because of human error.

Excluded Medicaid Expenditures

In its reconciliation for the quarter ended December 31, 2008, the State agency excluded $2,571,213 in Medicaid expenditures because a formula was deleted from the spreadsheet used to perform the reconciliation. Consequently, the State agency did not obtain the funding that it was owed.

Used Amounts on Internal Reports Instead of Actual Amounts for Federal Funds Withdrawn

In various quarterly reconciliations, the State agency used its internal records to determine the amount of Federal funds withdrawn instead of using the actual amounts from the PMS. Because differences occurred between the two sources, the State agency ultimately returned $214,941 less than it owed.

APPENDIX C: STATE AGENCY COMMENTS

STATE OF MARYLAND

DHMH

Maryland Department of Health and Mental Hygiene

201 W. Preston Street • Baltimore, Maryland 21201

Martin O'Malley, Governor – Anthony G. Brown, Lt. Governor – Joshua M. Sharfstein, M.D., Secretary

October 4, 2013

Ms. Patricia Wheeler
Regional Inspector General for Audit Services
Department of Health and Human Services
Office of Inspector General
Office of Audit Services, Region VI
1100 Commerce Street, Room 632
Dallas, TX 75242

Report Number: A-06-12-00051

Dear Ms. Wheeler:

Thank you for the opportunity to review and comment on the draft audit report entitled *Maryland Withdrew Excessive Federal Medicaid Funds for Fiscal Years 2009 Through 2011*. The Department of Health and Mental Hygiene (the Department) concurs with the audit findings and recommendations, and has already taken steps to resolve the issues.

Maryland requests that the title of the final audit report be changed to the following: "Maryland Failed to Adequately Reconcile Federal Draw Downs with Actual Expenditures for Fiscal Years 2009 Through 2011." The title in the draft audit report implies, incorrectly, that Maryland's actions were done in pursuit of excessive federal funds, when in fact the underlying issue involved reconciliation procedures. Given the large dollar amount mentioned in the report, and the absence of any finding that Maryland sought or received excessive federal funds to displace state dollars, we urge the Office of the Inspector General (OIG) to use the most conservative language possible in the title and narrative of the final report. This was not the case of a state seeking too much money from the federal government. It was a case involving the timing and handling of reconciling legitimate expenditures against federal draw downs. In the strongest possible way, we urge OIG to avoid the use of sensational language.

Audit Recommendation: Refund $115,331,662 to the federal government.

Department's Response:

The State concurs that $115,331,662 should be refunded. During the period of time reflected in the audit, several reconciliation errors caused federal funds to be drawn in excess of the federal match supported by the CMS-64 reports. However, these errors did not alter the underlying integrity of the state contribution, nor did they substitute for state funds. All of the excess draws

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were available for return, because in state fiscal year closings the Department reconciles to federal funds supported by the quarterly CMS-64 reports, adjusted for any amounts disallowed, and does not simply apply gross draws.

As indicated in the report, the State was entitled to $12.767 billion in draws over the three year period rather than $12.883 billion. The over draw is slightly less than a 1% error on this amount. However, the amount of the excess draw should have been detected in our reconciliations. Steps have been taken, as described below, to correct and tighten our internal procedures.

As detailed in the audit report, the $115,331,662 is net of an $116,726,613 overdraw of regular Medicaid funds, less an available balance of $1,394,951 ARRA funding, not yet drawn.

On the Medicaid side, $116,377,186 was returned on March 26, 2013 as a (decreasing) offset to our weekly draw. The remaining $349,427 is an administrative component of the over draw which we have yet to return, and will do so as an offset to the first weekly draw in October, 2013.

The $1,394,951 ARRA amount due to the State has not yet been drawn, but we will do so in the first draw in October, 2013. Enhanced ARRA FMAP ceased to be available for claims filed after June 30, 2011, but as required by CMS, the State has continued to track and return the ARRA component of recoveries that were associated with original ARRA claims. That "run out" process appears to be substantially complete and we will draw down the remaining funds.

Audit Recommendation: Ensure that the amounts used in its quarterly reconciliations are accurate and that it (the State) makes reconciliation adjustments to return or obtain federal funds.

Department's Response:

The State concurs. We have reviewed the documents and processes being used for quarterly reconciliations to ensure use of accurate data and separation of major funding streams, particularly Medicaid vs. CHIP. In addition, quarterly reconciling adjustments will be made as appropriate.

The last three recommendations are related and will be addressed collectively:

Audit Recommendation: Establish procedures in quarterly reconciliations to account for adjustments to expenditures not included on the CMS-64 report but that affect the State agency's grant award amounts.

Audit Recommendation: Monitor PMS (Payment Management System) accounts to anticipate fund deficiencies and determine whether to refund overdrawn amounts or to request a supplemental grant award, and

Audit Recommendation: Ensure that funds are withdrawn from the appropriate PMS account.

Department's Response:

The State concurs with all of the above. As a corrective action that addresses each of these concerns, the State is closely monitoring weekly balances in each PMS fund account, to verify that weekly activity only includes appropriate weekly draws from appropriate accounts. If other activity in the account(s) is discovered, such as CMS adjustments to expenditures not considered on the CMS-64, it will be immediately investigated and noted for proper consideration in the quarterly reconciliations. In addition, the Department is closely monitoring grant balances during the quarter vs. expenditure trends, to enable timely requests for supplemental awards.

Thank you, again, for the opportunity to respond. If you have any questions, please contact Thomas Russell, Inspector General at 410-767-5784 or Hank Fitzer, Deputy Director, Office of Finance at 410-767-5189.

Sincerely,

[redacted]

Joshua M. Sharfstein, M.D
Secretary

cc: Charles Milligan, DHMH, Deputy Secretary, Health Care Financing
Thomas V. Russell, DHMH, Inspector General
Ellwood Hall, DHMH, Assistant Inspector General
Audrey Parham-Stewart, DHMH, Director, Office of Finance
Elizabeth Morgan, DHMH, Office of the Inspector General
Warren Lundy, Audit Manager, HHS OIG