Department of Health and Human Services

OFFICE OF INSPECTOR GENERAL

ARKANSAS PROPERLY REPORTED THE AFFORDABLE CARE ACT PORTION OF MEDICAID DRUG REBATES

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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A-06-13-00034

Office of Inspector General

https://oig.hhs.gov

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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.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

OFFICE OF INSPECTOR GENERAL

OFFICE OF AUDIT SERVICES, REGION VI
1100 COMMERCE STREET, ROOM 632
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November 13, 2013

Report Number: A-06-13-00034

Mr. Thomas Carlisle
Chief Financial Officer
Arkansas Division of Medical Services
Department of Human Services
P.O. Box 1437, Slot 416
Little Rock, AR 72203-1437

Dear Mr. Carlisle:

Enclosed is the U.S. Department of Health and Human Services (HHS), Office of Inspector General (OIG), final report entitled *Arkansas Properly Reported the Affordable Care Act Portion of Medicaid Drug Rebates*. We will forward a copy of this report to the HHS action official noted below.

Section 8L of the Inspector General Act, 5 U.S.C. App., requires that OIG post its publicly available reports on the OIG Web site. Accordingly, this report will be posted at https://oig.hhs.gov.

If you have any questions or comments about this report, please direct them to the HHS action official. Please refer to report number A-06-13-00034 in all correspondence.

Sincerely,

/Patricia Wheeler/
Regional Inspector General
for Audit Services

Enclosure

HHS Action Official:

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INTRODUCTION

WHY WE DID THIS REVIEW

Section 2501 of the Affordable Care Act (ACA) increased the amount of rebates that drug manufacturers are required to pay to States under the Medicaid drug rebate program, effective January 1, 2010. Prior to the ACA, States kept the State share of rebates collected and returned the Federal portion, which is based on the Federal medical assistance percentage (FMAP) in effect for that State. However, the ACA requires States to return to the Federal Government 100 percent of the rebates collected that are attributable to the increases in the ACA (ACA portion).

OBJECTIVE

Our objective was to determine whether the Arkansas Department of Human Services (State agency) established adequate controls to properly report the ACA portion of Medicaid drug rebates.

BACKGROUND

Medicaid Program

Pursuant to Title XIX of the Social Security Act (the Act), the Medicaid program provides medical assistance to certain 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. The Federal Government pays its share, the FMAP, according to a formula established in section 1905(b) of the Act.

Medicaid Drug Rebate Program

The Medicaid drug rebate program became effective in 1991 (the Act, § 1927). For a covered outpatient drug to be eligible for Federal reimbursement under the program, the drug's manufacturer must enter into a rebate agreement with CMS and pay quarterly rebates to the States. CMS, the States, and drug manufacturers each have specific functions under the program.

Manufacturers are required to submit a list to CMS of all covered outpatient drugs and to report each drug's average manufacturer price (AMP) and, where applicable, best price.[1] On the basis of this information, CMS calculates a unit rebate amount for each drug and provides the information to the States each quarter.

[1] Section 1927(b) of the Act and section II of the Medicaid rebate agreement. The AMP is the average price paid by wholesalers to manufacturers for drugs distributed to retail pharmacies. The best price is the difference between the price that the State paid and any lower price paid by purchasers other than health maintenance organizations or Government entities.

States report drug rebates on Form CMS-64, Quarterly Medicaid Statement of Expenditures for the Medical Assistance Program (CMS-64 report), which summarizes actual Medicaid expenditures for each quarter and which CMS uses to reimburse States for the Federal share of Medicaid expenditures.

Medicaid Affordable Care Act Portion of Federal Drug Rebates

Effective January 1, 2010, § 2501 of the ACA amended § 1927 of the Act, increasing the amount of rebates that drug manufacturers are required to pay under the Medicaid drug rebate program. The amount of the increase varies depending on whether the drug is an innovator single-source or multiple-source drug (brand name) or a noninnovator multiple-source drug (generic).

Every quarter, CMS determines the portion of the unit rebate amount for each drug that relates to the ACA portion. CMS refers to this amount as the "unit rebate offset amount" (UROA). States apply the UROA to the number of units of each drug for which they received payment from a manufacturer to determine the ACA portion.[2]

The State Agency's Medicaid Drug Rebate Program

The State agency contracts with its fiscal agent, Hewlett-Packard Enterprise Services, LLC (HP), to perform all drug rebate program functions other than receiving rebate funds. HP calculates the rebates due based on CMS's unit rebate amount and bills the manufacturers for rebates. The manufacturers pay the rebates directly to the State agency. The State agency forwards copies of the payment information to HP, which reconciles the invoiced amount to the paid amounts. HP uses the UROA data from CMS to calculate the ACA portion for each drug for which payment is received.

HOW WE CONDUCTED THIS REVIEW

Our audit covered the ACA portion of drug rebates reported on the State agency's CMS-64 reports for October 1, 2011, through September 30, 2012. To evaluate controls, we selected the CMS-64 report for the quarter ending September 30, 2012, to determine whether all rebates collected during that quarter were reported. Then, using the rebate amounts collected, we verified whether the ACA portion that was reported was accurate.

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.

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

[2] The ACA portion is reported on line 7A5 of the CMS-64.9Base section of the CMS-64 report.

RESULTS OF AUDIT

The State agency established adequate controls to properly report the ACA portion of the Medicaid drug rebates.

APPENDIX: AUDIT SCOPE AND METHODOLOGY

SCOPE

Our audit covered the ACA portion of drug rebates reported on the CMS-64 reports for October 1, 2011, through September 30, 2012.

Our audit objective did not require an understanding or assessment of the complete internal control structure of the State agency. We limited our internal control review to obtaining an understanding of the State agency's controls over reporting the ACA portion of Medicaid drug rebates.

We performed fieldwork at the State agency and its contractors in Little Rock, Arkansas, from April through July 2013.

METHODOLOGY

To accomplish our objective, we:

- reviewed applicable Federal laws, regulations, and guidance pertaining to the ACA increases in Medicaid drug rebates;
- interviewed State agency and fiscal agent personnel to gain an understanding of the administration of and controls over the ACA portion of Medicaid drug rebates;
- reviewed State agency policies and procedures for calculating and reporting the ACA portion of Medicaid drug rebates; and
- tested the controls over reporting of the ACA portion of Medicaid drug rebates by:
    - obtaining from the State agency the CMS-64 reports for Federal fiscal year 2012,
    - reviewing the State agency's Medicaid drug rebate collection reports for rebate amounts collected from manufacturers during the quarter ended September 30, 2012,
    - reviewing the State agency's detail summary for the Medicaid drug rebates reported on the CMS-64 report for the quarter ended September 30, 2012,
    - reconciling the Medicaid drug rebates collected during the quarter ended September 30, 2012, to Medicaid drug rebate amounts reported in the CMS-64 report for September 30, 2012,
    - judgmentally selecting 30 sample items from the Medicaid drug rebate detail summary spreadsheet for the quarter ended September 30, 2012, for testing, and

- tracing the sample items to the invoice.[3]

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.

[3] The invoice is the original invoice sent from the State agency. If there are current-quarter adjustments or prior-quarter adjustments to be made, the manufacturer sends either the Reconciliation of State Invoice for current quarter payment adjustments or the Prior Quarter Adjustment Statement or both, rather than the original invoice, along with their payment.