Department of Health and Human Services

OFFICE OF INSPECTOR GENERAL

MONTANA CLAIMED FEDERAL MEDICAID REIMBURSEMENT FOR MORE THAN $5 MILLION IN TARGETED CASE MANAGEMENT SERVICES THAT DID NOT COMPLY WITH FEDERAL AND STATE REQUIREMENTS

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Office of Inspector General

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Report in Brief
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U.S. DEPARTMENT OF HEALTH & HUMAN SERVICES
OFFICE OF INSPECTOR GENERAL

Montana Claimed Federal Medicaid Reimbursement for More Than $5 Million in Targeted Case Management Services That Did Not Comply With Federal and State Requirements

Why OIG Did This Audit

Targeted Case Management (TCM) services assist specific State-designated Medicaid groups in gaining access to medical, social, educational, and other types of services. Previous OIG audits found that some States did not always claim Federal Medicaid reimbursement for TCM services in accordance with Federal and State requirements. Our objective was to determine whether Montana claimed Federal Medicaid reimbursement for TCM services during Federal fiscal years (FYs) 2018 through 2020 in accordance with Federal and State requirements.

How OIG Did This Audit

Our audit covered $42.1 million ($27.5 million Federal share) in Medicaid payments for TCM services provided and paid for in Montana during FYs 2018 through 2020 (October 1, 2017, through September 30, 2020).

We reviewed documentation for a stratified random sample of 150 unique TCM grouped line items (sample items) from the 4 largest target groups in the State to determine whether the services provided were allowable, case managers providing services were qualified, and recipients receiving services were eligible. We reviewed payment rates to determine whether they matched the approved rates for the period. We compared TCM documentation provided by Montana to applicable Federal regulations and the State plan supplements governing Montana's TCM program.

What OIG Found

Montana did not always claim Federal Medicaid reimbursement for TCM services during FYs 2018 through 2020 in accordance with Federal and State requirements. Of the 150 randomly sampled grouped line items, 43 sample items were at least partially unallowable because they had at least 1 error related to case managers lacking required experience or qualifications, unsupported services, unallowable services, or an ineligible recipient. Montana had policies and procedures in place for the administration of TCM services that, if followed, would have ensured compliance with Federal and State requirements. Based on our sample results, we estimated that Montana claimed at least $7.7 million (more than $5 million Federal share) in unallowable Medicaid reimbursement for these services.

What OIG Recommends and Montana Comments

We recommend that Montana refund to the Federal Government the more than $5 million (Federal share) in overpayments. We also make procedural recommendations that Montana always follows its established policies and procedures regarding: (1) TCM providers' case manager hiring practices, (2) verification that billed services were allowable and properly documented, and (3) verification that all individuals receiving services were eligible. Furthermore, we make procedural recommendations that Montana require TCM providers to comply with established policies and procedures.

Our draft report had identified 45 sample items with errors. Montana did not concur with 10 of the 45 sample items that we had identified as unallowable, said that these were allowable claims that were consistent with Federal and State law and policy, and gave us additional documentation. Montana neither agreed nor disagreed with our procedural recommendations but described corrective actions that it had taken or planned to take.

After reviewing Montana's comments and the additional documentation provided, we revised, for this final report, the number of errors we identified from 45 to 43 sample items. Accordingly, we revised our statistical estimate and the dollar amount conveyed in our first recommendation. We maintain that our findings and recommendations, as revised, are valid.

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INTRODUCTION

WHY WE DID THIS AUDIT

Case management services assist Medicaid recipients in gaining access to medical, social, educational, and other types of services. When these services are furnished to one or more specific populations within a State, they are known as Targeted Case Management (TCM) services. During Federal fiscal years (FYs) 2018 through 2020, the Montana Department of Public Health and Human Services (State agency) claimed $42.1 million ($27.5 million Federal share) for TCM services. Previous Office of Inspector General (OIG) audits (Appendix B) found that some States did not always claim Federal Medicaid reimbursement for TCM services in accordance with Federal and State requirements.

OBJECTIVE

Our objective was to determine whether the State agency claimed Federal Medicaid reimbursement for TCM services during FYs 2018 through 2020 in accordance with Federal and State requirements.

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, 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.

States use the standard Form CMS-64, Quarterly Medicaid Statement of Expenditures for the Medical Assistance Program (CMS-64 report), to report actual Medicaid expenditures for each quarter. CMS uses the CMS-64 reports to reimburse States for the Federal share of Medicaid expenditures. The amounts that States report on the CMS-64 report and its attachments must reflect actual expenditures and be supported by documentation. The amount that the Federal Government reimburses to State Medicaid agencies, known as Federal financial participation (FFP) or Federal share, is determined by the Federal medical assistance percentage (FMAP), which varies based on a State's relative per capita income. Although FMAPs are adjusted annually for economic changes in the States, Congress may increase or decrease FMAPs at any time. During our audit period, Montana's FMAP ranged from 64.78 percent to 70.98 percent.

Medicaid Coverage of Targeted Case Management Services

The Social Security Act (the Act) authorizes State Medicaid agencies to provide case management services to Medicaid recipients (§ 1905(a)(19)). Furthermore, the Act defines case management services as "services that will assist individuals eligible under the [State] plan in gaining access to needed medical, social, educational, and other services" (§ 1915(g)(2)).

Federal regulations (42 CFR § 440.169(b)) refer to case management services as TCM services when they are furnished to specific populations in a State. Federal regulations state that allowable TCM services include assessment of an individual to determine service needs, development of a specific care plan, referral and related activities to help the individual obtain needed services, and monitoring and followup activities (42 CFR § 440.169(d)). However, Federal regulations also state that TCM services do not include the direct delivery of the underlying medical, educational, social, or other services to which the Medicaid-eligible individual has been referred, including services such as providing transportation (42 CFR § 441.18(c)).

The CMS *State Medicaid Manual* states that FFP is not available for the specific services needed by an individual as identified through case management activities unless those services are separately reimbursable under Medicaid. Also, FFP is not available for the cost of the administration of the services or programs to which recipients are referred (*State Medicaid Manual* § 4302.2(G)(1)).

Montana Medicaid Program and Targeted Case Management

In Montana, the State agency administers the provision and payment of Medicaid services. The State agency uses the Medicaid Management Information System (MMIS), a computerized payment and information reporting system, to process and pay Medicaid claims.

The Montana State plan includes a supplement that addresses the provision of TCM services and that designates eight target groups to receive TCM services:

- high-risk pregnant women;
- children with special health care needs;
- adults with severe disabling mental illness (SDMI);
- youths under the age of 21 with substance use disorder (SUD);
- adults with SUD;
- youths with serious emotional disturbance (SED);

- youths with SED who are being treated in an out-of-State Psychiatric Residential Treatment Facility (PRTF); and

- individuals with developmental disabilities (DD).

For each target group, the TCM State plan supplement contains information about, among other things, allowable TCM services, recipient TCM eligibility requirements, and case management provider qualifications.

In general, the State agency receives bills for TCM services from Medicaid providers, reviews and pays those bills, and claims Federal Medicaid reimbursement for these services on the CMS-64 reports. This report refers to Medicaid providers that render TCM services to recipients as "TCM providers;" this designation can apply to licensed mental health centers, State agency Developmental Disability Program (DDP) employees, and, for the DD target group, other providers that are contracted with the DDP (and also known as "DD contractors") but that are not State agency DDP employees.

TCM services for all groups except the DD target group were billed at a 15-minute unit of service (Montana State Plan, Attachment 4.19B, "Methods & Standards for Establishing Payment Rates"). DD contractors also billed services in 15-minute increments until June 1, 2018 (which was within our audit period). This was the effective date of the State agency's contract with a single DD contractor responsible for the delivery of TCM services to the DD target group across the State.[1] This was also the effective date of revised procedures that directed that single DD contractor to begin billing on a per-member-per-month (also known as a bundled payment rate) basis.

HOW WE CONDUCTED THIS AUDIT

Our audit period covered TCM services that the State agency provided and paid for during FYs 2018 through 2020 (October 1, 2017, through September 30, 2020). We identified a sampling frame of 226,637 unique TCM grouped line items totaling $42,092,657 ($27,465,133 Federal share), from which we selected a stratified random sample of 150.[2] We included in our sampling frame only grouped line items from the four largest target groups in the State.[3] For

[1] Before this date, the State agency contracted with four entities to render TCM services to the DD target group. Because the June 1, 2018, transition to a single DD contractor occurred within our audit period, some of the errors described below involved both the single DD contractor and its predecessors.

[2] We grouped the TCM recipient services by recipient name, date of birth, identification number, target group, group modifier, provider name, month, year, and rate. We referred to the results as "grouped line items." This grouping is the basis of our sample unit.

[3] These four target groups were SDMI, SED, PRTF, and DD, which together comprised more than 99 percent of the total claims amount.

each sample item, the State agency gave us case notes describing the TCM services rendered, case manager qualification documents, and recipient eligibility documents.

We reviewed the documentation that the State agency gave us for services rendered, recipient eligibility, and provider qualifications to determine whether the TCM services rendered and paid for complied with Federal and State requirements. We also compared the rates that the State agency paid to the payment rates that the State agency approved.

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 details of our audit scope and methodology, Appendix B contains a list of previously issued OIG reports, Appendix C contains our statistical sampling methodology, Appendix D contains our sample results and estimates, Appendix E contains details on the Federal and State requirements related to TCM, and Appendix F contains a summary of errors for each sample item.

FINDINGS

The State agency did not always claim Federal Medicaid reimbursement for TCM services during FYs 2018 through 2020 in accordance with Federal and State requirements. Specifically, 43 of the 150 sampled grouped line items were at least partially unallowable because they had at least 1 of the errors listed in Table 1 (some sample items had more than 1 error):[4]

Table 1: Summary of Deficiencies in Sample Items

Type of Deficiency	Sample Items Containing Deficiency
Case manager did not have required experience	27
TCM provider could not provide documentation to support number of units billed for TCM services	12
State agency could not provide case manager qualification documentation	3
TCM provider billed services that did not meet the definition of TCM services	2
TCM provider billed services for a recipient who was not eligible	1

[4] All of the errors we identified related to contracted TCM services; none involved services rendered by State-employed case managers.

The State agency had policies and procedures in place for the administration of TCM services in Montana that, if followed, would have ensured compliance with Federal and State requirements. Specifically, the State agency did not implement a process to review billed services to verify that they were allowable and properly documented. As a result, providers billed the State agency (and received payment) for some unallowable TCM services. The State agency then claimed Federal Medicaid reimbursement for some TCM services that did not comply with Federal and State requirements.

Based on our sample results, we estimated that the State agency claimed at least $7,756,466 ($5,065,966 Federal share) in unallowable Medicaid reimbursement for TCM services during FYs 2018 through 2020.[5]

THE STATE AGENCY DID NOT ENSURE THAT ALL TARGETED CASE MANAGEMENT SERVICES COMPLIED WITH FEDERAL AND STATE REQUIREMENTS

The State agency claimed Federal Medicaid reimbursement for some TCM claims that did not comply with Federal and State requirements. Of the 150 randomly sampled items, 43 were at least partially unallowable for Medicaid reimbursement (some sample items had more than 1 error).

Federal and State Requirements

Federal regulations define the types of services that are allowable and unallowable as TCM services and specify the requirements for maintaining supporting documentation (42 CFR §§ 440.169(d) and 441.18). TCM State plan supplements define the target population for each group, the types of services available to the target population, and the requirements for providers and case managers (Montana State Plan, Supplements to Attachment 3.1-A/B).

Some Case Managers Rendering Targeted Case Management Services Did Not Have the Experience Required by the State Plan Supplement

Federal regulations require the State plan supplements for each target group to specify provider qualifications that are reasonably related to the population being served and the case management services furnished (42 CFR § 441.18(a)(8)(v)).

The TCM State plan supplements for the SDMI and SED target groups require mental health centers providing TCM services to employ case managers who have a bachelor's degree in a human services field with at least 1 year of full-time experience serving individuals from each target group. The supplements for these target groups allow individuals with other educational backgrounds to provide TCM services if they have developed the necessary skills; however,

[5] To be conservative, we recommend recovery at the lower limit of a two-sided 90-percent confidence interval. Lower limits calculated in this manner are designed to be less than the actual overpayment total 95 percent of the time.

equivalency provisions must be identified in the mental health centers' case management position descriptions (Montana State Plan, Supplements 1B and 1D to Attachment 3.1-A/B).

The State agency claimed unallowable Federal Medicaid reimbursement for 27 sample items in which 1 or more case managers who did not meet the experience requirements had rendered TCM services for which the TCM providers then billed the State agency.[6]

Some case manager qualification documentation (which included resumes, job applications, and transcripts, as well as other items) did not demonstrate that the case managers had at least 1 year's experience working with the target population as required by the State plan.

For example, one case manager's resume listed the most recent work experience as an after-school counselor at an elementary school (but the resume did not indicate any work with children with mental illness), while previous experience included television and film production assistant. Additionally, the resume did not convey any work experience working with adults with SDMI, the target group for which the provider had billed. Another case manager's resume listed experience working in the juvenile court system but, as in the previous example, no experience working with SDMI adults, which was also the billed target group.

Providers Did Not Maintain Documentation To Support Targeted Case Management Claims

A State plan is required to "provide for agreements with every person or institution providing services under the State plan under which such person or institution agrees (A) to keep such records as are necessary to fully disclose the extent of the services provided to individuals receiving assistance under the State plan, and (B) to furnish the State agency or the Secretary [of Health and Human Services] with such information . . . as the State agency or the Secretary may from time to time request" (the Act § 1902(a)(27)).

Case record documentation requirements also appear in Federal regulations at 42 CFR § 441.18(a)(7)(iv).

"The monthly payment rate shall not be paid unless an allowable TCM service is provided to an eligible beneficiary [i.e., recipient] within the month" (Montana State Plan, Attachment 4.19B, "Methods & Standards for Establishing Payment Rates").

For 12 sample items, the TCM providers did not maintain documentation to support that they had rendered a TCM service to a Medicaid recipient. Specifically, for nine sample items, the State agency could not furnish documentation related to the TCM services that the providers billed and that the State agency paid for (and then claimed for Federal Medicaid reimbursement). All nine of these sample items were for DD claims billed via a bundled payment rate, i.e., a single monthly rate inclusive of all TCM services rendered to a recipient in

[6] For those instances in which more than one case manager had billed TCM services for a claim, we considered only the units billed by the unqualified case manager(s) when calculating the unallowable amount.

a month. For the remaining three sample items, documentation furnished did not support the amount of TCM services billed by the provider.

The State Agency Could Not Provide Documentation for Case Managers' Qualifications

The CMS *State Medicaid Manual* states that Federal Medicaid reimbursement is "available only for allowable actual expenditures made on behalf of eligible recipients for covered services rendered by certified providers. Expenditures are allowable only to the extent that, when a claim is filed, you have adequate supporting documentation in readily reviewable form to assure that all applicable Federal requirements have been met" (*State Medicaid Manual* § 2497.1). Additionally, the State plan supplement for the DD target group requires that documentation of the qualifications of case managers must be maintained by the case managers' employers (Montana State Plan, Supplement 1C to Attachment 3.1-A/B).

For three sample items, the State agency claimed unallowable Federal Medicaid reimbursement for TCM services rendered but for which no case manager qualification documentation was available. Specifically, the State agency was unable to obtain the case manager qualification documentation because the provider's office had permanently closed. In response to our queries regarding these sample items, the State agency was unable to provide anything to support that the case managers in question were qualified to render TCM services.

Providers Claimed Some Unallowable Services as Targeted Case Management Services

Federal regulations state that allowable TCM services include assessment of an individual to determine service needs, development of a specific care plan, referral and related activities to help the individual obtain needed services, and monitoring and followup activities (42 CFR § 440.169(d)).

Case management does not include, and FFP is not available for, services defined in section 441.169 when the case management activities constitute the direct delivery of underlying medical, educational, social, or other services to which an eligible individual has been referred (42 CFR § 441.18(c)). Case management does not include, and Federal reimbursement is not available for, providing transportation (42 CFR § 441.18(c)(6)).

For two sample items, TCM providers billed the State agency (which then claimed Federal Medicaid reimbursement) for TCM services in which the supporting case notes documented services that did not meet the definition of allowable TCM services. Specifically, case notes documented services that included: transportation (to appointments, shopping, the pharmacy, and other locations), assistance with exercise routines, moving personal items between residences, and assistance in selecting clothing items.

For example, the State agency claimed unallowable Medicaid reimbursement for a TCM claim that the provider submitted using the following case note as supporting documentation: "[Case manager] assisted client to her appointment with [physician] so she could go over her sleep

study with the doctor and getting her prescription picked up at the pharmacy. We stopped by [grocery store] so she could get some food to take back to the [residence]. We then went [and] picked up the rest of her groceries out at [grocery store]."

A Provider Billed for Services Rendered to a Medicaid Recipient Who Was Not Eligible To Receive Targeted Case Management Services

TCM services may be offered to individuals in any defined location of the State or to individuals within targeted groups specified in the State plan (42 CFR § 440.169(b)). TCM services are rendered to assist Medicaid-eligible youths with SED in gaining access to needed medical, social, educational, and other services (Supplement 1D to Attachment 3.1-A/B, State plan for youths with SED).

To qualify to receive TCM services as a member of the SED target group, youths aged 6 and older must have been determined by a licensed mental health professional to have at least one of several designated mental disorders as a primary diagnosis among other criteria. SED youths must be reassessed annually to determine whether they still meet the SED criteria (State agency's *Children's Mental Health Bureau Medicaid Services Provider Manual*).

For one sample item, a TCM provider billed for services in which the recipient had been determined ineligible for TCM services. Specifically, the TCM provider billed for services 2 months after the recipient's therapist had determined, during an annual TCM eligibility screening, that the individual did not meet SED target group requirements.

THE STATE AGENCY DID NOT ALWAYS FOLLOW ITS POLICIES AND PROCEDURES TO ENSURE THAT TARGETED CASE MANAGEMENT PROVIDERS COMPLIED WITH FEDERAL AND STATE REQUIREMENTS

The State agency had policies and procedures in place for the administration of TCM services in Montana that, if followed, would have ensured compliance with Federal and State requirements. Specifically, the State agency did not review TCM providers' case manager hiring practices to verify adherence with the State plan's experience requirements and to ensure that case managers' qualifications were documented. In addition, the State agency did not implement a process to review billed services to verify that they were allowable and properly documented. Furthermore, the State agency did not review target group eligibility documentation to ensure that all individuals receiving services were eligible.

EFFECT OF UNALLOWABLE TARGETED CASE MANAGEMENT CLAIMS

As a result of the fact that the State agency did not always follow its policies and procedures, TCM providers billed the State agency (and received payment) for some unallowable TCM services. The State agency then claimed Federal Medicaid reimbursement for some TCM services that did not comply with Federal and State requirements.

Based on our sample results, we estimated that the State agency improperly claimed at least $7,756,466 ($5,065,966 Federal share) in unallowable Medicaid reimbursement for TCM services during FYs 2018 through 2020.

RECOMMENDATIONS

We recommend that the Montana Department of Public Health and Human Services:

- refund to the Federal Government $5,065,966 (Federal share) in overpayments;
- ensure that it always follows its established policies and procedures by:
    - reviewing TCM providers' case manager hiring practices to verify adherence with the State plan's experience requirements and to ensure that case managers' qualifications were documented,
    - implementing a process to review billed services to verify that they were allowable and properly documented, and
    - reviewing target group eligibility documentation to ensure that all individuals receiving services were eligible; and
- require TCM providers to comply with established policies and procedures in order to ensure that:
    - case managers who render TCM services to recipients have the experience required by the State plan supplement,
    - TCM providers maintain documentation to support the TCM services rendered,
    - TCM providers maintain documentation to support that case managers are qualified to perform TCM services,
    - the State agency does not pay TCM providers or claim Federal Medicaid reimbursement for services that are not allowable TCM services, and
    - recipients receiving TCM services are eligible to receive those services.

STATE AGENCY COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE

In written comments on our draft report, the State agency did not concur with 10 of the 45 sample items that we had identified as unallowable. The State agency also did not concur with the draft report's first recommendation to refund $5,394,519 to the Federal Government. The State agency said that it:

> disagrees with the Draft Audit Report's recommended disallowance of $5,394,519 (Federal share) in overpayments. . . . 10 of the 45 samples identified as unallowable by the Draft Audit Report are in fact consistent with state and federal law and policy and should not be factored into the extrapolation methodology used by OIG to estimate the total dollar value of the State agency's unallowable payments.

Additionally, the State agency neither agreed nor disagreed with our second and third recommendations but described corrective actions that it had taken or planned to take. Specifically, the State agency said that it had "implemented a care management system that improves [its] ability to monitor TCM documentation." The State agency added that, in concert with its own Office of Inspector General, it would "strengthen licensing and utilization reviews" and described types of "additional provider education" that it would deliver.

A summary of the State agency's comments (which refer from time to time to provider qualifications, case notes, and other additional documentation separately provided to us) and our responses follows. We excluded the additional documentation from the State agency's comments because that documentation contained personally identifiable information. The State agency's comments appear as Appendix G.

After reviewing the State agency's comments and the additional documentation that the State agency provided, we revised, for this final report, the number of errors we identified from 45 to 43 claims. Accordingly, we revised our statistical estimate and the dollar amount conveyed in our first recommendation. We maintain that our findings and first recommendation, as revised, are valid. We also maintain that our second and third recommendations, regarding the State's agency's administration of its TCM program, remain valid.

SAMPLE ITEMS INVOLVING CASE MANAGERS' EXPERIENCE

State Agency Comments

The State agency did not concur with our first recommendation and, specifically, with 4 of the 28 sample items in this area for which our draft report had identified deficiencies. In overall comments on this recommendation, the State agency stated:

> A state is entitled to deference in its interpretation of its own state plan, so long as that interpretation is an official interpretation and is reasonable in light of the language of the state plan as a whole and the applicable federal requirements . . . . Thus, the State's interpretation with respect to whether an individual's experience and credentials meet the minimum requirements of the Montana State Plan should be given deference.

The State agency also noted the considerable "economic, demographic, and geographic circumstances [that] present unique challenges" which Montana, as "a frontier state," must

face when administering its Medicaid program. To meet these challenges, while ensuring that recipients receive medically necessary care, the State agency said that it "reasonably interprets [work] experience broadly."

For the four sample items in this area with which the State agency did not concur, it separately gave us case manager qualification documentation (which included transcripts, resumes, job applications, and other documents) which, it said, supported that the case managers in question met the State plan's requirement of 1 year of full-time experience.

Office of Inspector General Response

The additional documentation that the State agency gave us resolved 1 of the 28 sample items that our draft report had identified as unallowable. We therefore reduced the number of sample items associated with this finding, from 28 to 27, and adjusted the associated statistical estimate, as well as the dollar amount in our first recommendation, accordingly.

Of the remaining 27 sample items in this finding, the State agency agreed with us on 23 sample items and neither agreed nor disagreed with us on 1 sample item. For the other three sample items with which the State agency did not concur, either the State agency had previously given us the additional documentation during our audit, or the additional documentation that the State agency separately gave us did not relate to a case manager associated with any of these three sample items.

We agree that the State agency is entitled to deference in its reasonable interpretation of its own State plan. However, of the 3 sample items for which the State agency did not concur with our finding, the errors resulted not from a disagreement between our and the State agency's interpretation of what experience would qualify, but instead from case managers not having enough experience that would count toward the 1-year experience requirement for the SED and SDMI target groups. For example, with respect to one case manager (who had been serving in that role for approximately 4 months before rendering the TCM service in question), the State agency counted work performing pool maintenance, leading ATV tours, serving as an analytics project manager, and serving as a sales manager as satisfying the 1-year experience requirement for the SED and SDMI target groups. This previous experience did not relate to experience working with the target groups.

SAMPLE ITEMS INVOLVING DOCUMENTATION TO SUPPORT THE NUMBER OF UNITS BILLED FOR TARGETED CASE MANAGEMENT SERVICES

State Agency Comments

The State agency did not concur with 3 of the 13 sample items in this area for which our draft report had identified deficiencies. For one of the three sample items, the State agency said that it had previously given us only a "case note report" rather than the actual case note, which it now separately provided to us and which "demonstrates there was the requisite

documentation to support the number of units billed." For the second sample item, the State agency explained how service units are documented in the case notes and pointed out that in some case notes, contact is documented but "did not result in billing of any service units." For the third sample item, the State agency described a case note input error in which the case manager had selected "AM" instead of "PM" when documenting the start time of a brief telephone call to a recipient (such that the case note incorrectly reflected a phone call of over 12 hours instead of the actual less than 15 minutes' duration). The State agency characterized this error as an isolated occurrence that "is not representative of either the provider in particular or Montana TCM providers in general. Accordingly, this sample [item] should not be included in the statistical extrapolation used to estimate the total dollar value of the State agency's unallowable claims."

Office of Inspector General Response

The additional case notes that the State agency gave us resolved 1 of the 13 sample items that our draft report had identified as unallowable. We therefore reduced the number of sample items associated with this finding, from 13 to 12, and adjusted the associated statistical estimate, as well as the dollar amount in our first recommendation, accordingly.

Of the remaining 12 sample items in this finding, the State agreed with us on 10 sample items. For the other two sample items with which the State agency did not concur, one was a duplicate billing note. We reviewed all case notes provided by the State agency (billed and non-billed) and identified two case notes billed and paid for that were identical. The second sample item, involving the case note input error described above, resulted in a billing of 49 units (12.25 hours) of TCM services rather than the intended 1 unit (15 minutes). This error, whether an isolated occurrence or not, represents a significant overbilling of TCM services that were billed but not rendered. We disagree with the State agency that the error for one of the sample items should not be included in the estimate of unallowable Medicaid TCM payments, as our sampling approach is statistically valid.

SAMPLE ITEMS INVOLVING CASE MANAGER QUALIFICATION DOCUMENTATION

State Agency Comments

The State agency did not concur with all three of the sample items for which, as described in our draft report, the State agency was unable to provide documentation of case manager qualifications. The State agency said that all three of these sample items involved a single contractor that had abruptly gone out of business and stated that the State agency's focus thereafter was on finding replacement services for impacted recipients. The State agency added that it was not able to secure employment records from this provider. The State agency also stated that it:

> acknowledges that the State cannot provide documentation of targeted case manager qualifications for these specific samples, but notes that the closing of

this provider was an anomalous situation that was outside the control of the State and unlikely to occur again. Had it not gone out of business, it is likely that the provider would have been able to supply the necessary documentation to demonstrate the TCM employees had the requisite qualifications, as is the case with the majority of the 150 samples reviewed by OIG.

Office of Inspector General Response

Although the sudden closure of a contracted provider may be a rare event, it highlights the necessity to ensure that contracted providers are adhering to the State's policies and procedures by documenting case manager's qualifications (our second recommendation). Furthermore, the CMS *State Medicaid Manual* states that expenditures are allowable only to the extent that, when a claim is filed, there is adequate supporting documentation in readily reviewable form to assure that all applicable Federal requirements have been met. It is the State agency's responsibility to ensure that the adequate supporting documentation is readily reviewable.

STATE AGENCY COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE REGARDING RECOMMENDATION THAT THE STATE AGENCY FOLLOW ESTABLISHED POLICIES AND PROCEDURES

State Agency Comments

The State agency did not agree or disagree with our second recommendation but described corrective actions that it had taken or planned to take. The State agency said that it would "continue to improve program quality and strengthen licensing and utilization reviews." Furthermore, the State agency said that it had "implemented a care management system that improves the [State agency's] ability to monitor TCM documentation. The care management system is being implemented across [the State agency] and will contain all program data, case notes, and benefits for individual members, including TCM case notes."

Office of Inspector General Response

We commend the State agency for the corrective action it has taken or plans to take to ensure that it follows its established policies and procedures.

STATE AGENCY COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE REGARDING RECOMMENDATION THAT THE STATE AGENCY REQUIRE TARGETED CASE MANAGEMENT PROVIDERS TO COMPLY WITH ESTABLISHED POLICIES AND PROCEDURES

State Agency Comments

The State agency did not agree or disagree with our third recommendation but described corrective actions that it had taken or planned to take. The State agency said it would "engage

in additional provider education on targeted case manager requirements through written provider notices, provider trainings, and collaboration with provider associations." The State agency also stated that it would work internally with its own Office of Inspector General "to increase communication of requirements and targeted corrective action during licensing and utilization reviews moving forward." Furthermore, the State agency said that it had "implemented a care management system that improves the [State agency's] ability to monitor TCM documentation."

Office of Inspector General Response

We commend the State agency for the corrective action it has taken or plans to take to require TCM providers to comply with established policies and procedures.

APPENDIX A: AUDIT SCOPE AND METHODOLOGY

SCOPE

Our audit covered $42,092,657 ($27,465,133 Federal share) in Medicaid payments for TCM services provided and paid for in Montana during FYs 2018 through 2020 (October 1, 2017, through September 30, 2020).

We identified a sampling frame of 226,637 grouped line items of TCM recipient services (footnote 2) totaling $42,092,657 ($27,465,133 Federal share)—which included claims from the 4 largest target groups in the State (footnote 3)—from which we selected a stratified random sample of 150. We obtained and reviewed case notes and other documentation for each TCM service rendered, as well as case manager qualification and recipient eligibility documents, to determine whether the TCM services for which the State agency paid complied with applicable Federal and State requirements.

We assessed internal controls necessary to satisfy the audit objective. In particular, we assessed the control activities related to the State agency's administration of the TCM program, which included services rendered by contracted providers.

We conducted our audit work from November 2020 to May 2022.

METHODOLOGY

To accomplish our objective, we:

- reviewed applicable Federal laws, Federal and State regulations, the CMS *State Medicaid Manual*, and the Montana TCM State plan and its supplement;

- held discussions with State agency officials to gain an understanding of the TCM program's operation;

- obtained the MMIS claims data for TCM services provided and paid for in FYs 2018 through 2020;

- reconciled the MMIS claims payment data for TCM services to the Medicaid payments claimed on the CMS-64 reports for FYs 2018 through 2020;

- developed a sampling frame of MMIS claims for TCM services provided and paid for during FYs 2018 through 2020 and consisting of 226,637 unique TCM grouped line items;

- selected a stratified random sample of 150 grouped line items and reviewed supporting documentation for each of these to:

    - determine whether the TCM service(s) rendered were allowable according to the TCM State plan supplement and whether the unit(s) charged were reasonable,

    - determine whether the recipient was eligible for TCM services,

    - determine whether the TCM case manager(s) was qualified to provide TCM services, and

    - determine whether the payment rate(s) used to determine payments were accurate;

- used the results of the sample to estimate (Appendix D) the unallowable Federal Medicaid reimbursement associated with the deficiencies we identified (for which we are recommending refund to the Federal Government); and

- discussed the results of our audit with State agency officials on January 10, 2022.

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: PREVIOUSLY ISSUED OFFICE OF INSPECTOR GENERAL REPORTS

Report Title	Report Number	Date Issued
Nebraska Claimed Almost All Medicaid Payments for Targeted Case Management Services in Accordance With Federal Requirements but Claimed Some Unallowable Duplicate Payments	A-07-19-03239	12/1/2020
Missouri Claimed Some Unallowable Medicaid Payments for Targeted Case Management Services	A-07-17-03219	3/5/2019
Colorado Claimed Some Unallowable Medicaid Payments for Targeted Case Management Services	A-07-16-03215	4/4/2018
North Dakota Claimed Some Unallowable Medicaid Payments for Targeted Case Management Services	A-07-16-03210	10/27/2016
Connecticut Claimed Unallowable Medicaid Payments for Targeted Case Management Services Provided to Individuals With Chronic Mental Illness	A-01-14-00001	8/7/2015
Missouri Claimed Unallowable Medicaid Payments for Targeted Case Management Services Provided to Individuals With Developmental Disabilities	A-07-13-03193	10/30/2014
Iowa Medicaid Payments for Targeted Case Management for Fiscal Years 2003 and 2004	A-07-06-03078	11/9/2007
Review of Minnesota Medicaid Reimbursement for Targeted Case Management Services for Fiscal Years 2003 and 2004	A-05-05-00059	10/18/2007
Review of Medicaid Targeted Case Management Services Provided by the Maine Bureau of Child and Family Services During Federal Fiscal Years 2002 and 2003	A-01-05-00004	12/7/2007
Review of Targeted Case Management Services Rendered by the Massachusetts Department of Social Services During Federal Fiscal Years 2002 and 2003	A-01-04-00006	5/19/2006

APPENDIX C: STATISTICAL SAMPLING METHODOLOGY

SAMPLING FRAME

The sampling frame consisted of 226,637 grouped line items of TCM recipient services (footnote 2) that were provided in 4 target groups (footnote 3) during the period of FYs 2018 through 2020 and for which the State agency paid during that same time period. The grouped line items in the sampling frame had a total reimbursement of $42,092,657 ($27,465,133 Federal share).

SAMPLE UNIT

The sample unit was one TCM grouped line item.

SAMPLE DESIGN AND SAMPLE SIZE

Our sample design was a stratified random sample containing three strata, as shown in Table 2:

Table 2: Division of Strata for Sample Design

Stratum	Dollar Range	No. of Frame Units	Frame Dollar Value (Federal Share)	Sample Size
1	$1.30 – $174.90	158,730	$8,776,602	50
2	$174.91 – $497.96	50,846	9,740,827	50
3	$497.97 – $8,298.72	17,061	8,947,704	50
	Totals	**226,637**	**$27,465,133**	**150**

SOURCE OF RANDOM NUMBERS

We generated the random numbers using the OIG, Office of Audit Services (OAS) statistical software.

METHOD FOR SELECTING SAMPLE ITEMS

We sorted the items in each stratum by first name, last name, date of birth, Medicaid identification number, target group, modifier, provider, month of service, and payment rate. We then consecutively numbered the items in each stratum in the sampling frame. After generating random numbers for each of these strata, we selected the corresponding frame items for review.

ESTIMATION METHODOLOGY

We used the OIG, OAS, statistical software to estimate the total dollar value of the State agency's unallowable payments for TCM services in our sampling frame at the lower limit of the two-sided 90-percent confidence interval (Appendix D). Lower limits calculated in this manner are designed to be less than the actual overpayment total 95 percent of the time.

APPENDIX D: SAMPLE RESULTS AND ESTIMATES

Table 3: Sample Results (Total)

Stratum	Frame Size	Value of Frame	Sample Size	Value of Sample	Number of Unallowable Sample Items	Value of Unallowable Sample Items
1	158,730	$13,457,517	50	$4,343	13	$1,069
2	50,846	14,925,674	50	14,872	10	2,417
3	17,061	13,709,466	50	40,196	20	12,850
Total	**226,637**	**$42,092,657**	**150**	**$59,411**	**43**	**$16,336**

Table 4: Sample Results (Federal Share)

Stratum	Frame Size	Value of Frame	Sample Size	Value of Sample	Number of Unallowable Sample Items	Value of Unallowable Sample Items
1	158,730	$8,776,602	50	$2,836	13	$698
2	50,846	9,740,827	50	9,705	10	1,577
3	17,061	8,947,704	50	26,258	20	8,395
Total	**226,637**	**$27,465,133**	**150**	**$38,799**	**43**	**$10,670**

Table 5: Estimated Value of Unallowable Payments in the Sampling Frame (Limits Calculated at the 90-Percent Confidence Level)

	Total	Federal Share
Point estimate	$10,236,266	$6,685,308
Lower limit	7,756,466	5,065,966
Upper limit	12,716,066	8,304,649

APPENDIX E: FEDERAL AND STATE REQUIREMENTS FOR TARGETED CASE MANAGEMENT

FEDERAL REQUIREMENTS

A State plan is required to "provide for agreements with every person or institution providing services under the State plan under which such person or institution agrees (A) to keep such records as are necessary to fully disclose the extent of the services provided to individuals receiving assistance under the State plan, and (B) to furnish the State agency or the Secretary [of Health and Human Services] with such information . . . as the State agency or the Secretary may from time to time request" (the Act § 1902(a)(27)).

Federal regulations (42 CFR §§ 440.169(a) and (b)) define TCM services as services furnished to assist individuals, eligible under the State plan, who reside in a community setting or are transitioning to a community setting, in gaining access to needed medical, social, educational, and other services.

Federal regulations (42 CFR § 440.169(d)) state that the assistance that TCM case managers provide in assisting eligible individuals to obtain services includes:

(1) Comprehensive assessment and periodic reassessment of individual needs, to determine the need for any medical, educational, social, or other services . . . .

(2) Development (and periodic revision) of a specific care plan based on the information collected through the assessment . . . .

(3) Referral and related activities (such as scheduling appointments for the individual) to help the eligible individual obtain needed services, including activities that help link the individual with medical, social, and educational providers or other programs and services that are capable of providing needed services to address identified needs and achieve goals specified in the care plan.

(4) Monitoring and follow-up activities, including activities and contacts that are necessary to ensure that the care plan is effectively implemented and adequately addresses the needs of the eligible individual and which may be with the individual, family members, service providers, or other entities or individuals and conducted as frequently as necessary, and including at least one annual monitoring . . . .

Federal regulations require TCM providers to maintain case records that document, for all individuals receiving TCM services, "[t]he nature, content, units of the [TCM] services received and whether goals specified in the care plan have been achieved" (42 CFR § 441.18(a)(7)(iv)).

Federal regulations require the State plan supplements for each target group to specify provider qualifications that are reasonably related to the population being served and the case management services furnished (42 CFR § 441.18(a)(8)(v)).

Federal regulations state that TCM "does not include, and FFP is not available in expenditures for, services defined in § 441.169 of this chapter when the [TCM] activities constitute the direct delivery of underlying medical, educational, social, or other services to which an eligible individual has been referred, including for services such as, but not limited to," providing transportation (42 CFR § 441.18(c)).

The CMS *State Medicaid Manual* states that FFP is not available for the specific services needed by an individual as identified through TCM activities unless they are separately reimbursable under Medicaid. Also, FFP is not available for the cost of the administration of the services or programs to which recipients are referred (*State Medicaid Manual* § 4302.2(G)(1)).

The CMS *State Medicaid Manual* states that Federal Medicaid reimbursement is "available only for allowable actual expenditures made on behalf of eligible recipients for covered services rendered by certified providers. Expenditures are allowable only to the extent that, when a claim is filed, you have adequate supporting documentation in readily reviewable form to assure that all applicable Federal requirements have been met" (*State Medicaid Manual* § 2497.1).

STATE REQUIREMENTS

The TCM State plan supplement's definition of TCM services closely mirrors the definition of TCM services set forth in 42 CFR § 440.169. The State plan language defines TCM as services that assist eligible individuals in gaining access to needed medical, social, educational, and other services.

The TCM State plan supplements for the SDMI and SED target groups require mental health centers providing TCM services to employ case managers who have a bachelor's degree in a human services field with at least 1 year of full-time experience serving individuals from each target group. The supplements for these target groups allow individuals with other educational backgrounds to provide TCM services if they have developed the necessary skills; however, equivalency provisions must be identified in the mental health centers' case management position descriptions (Montana State Plan, Supplements 1B and 1D to Attachment 3.1-A/B).

The State plan supplement for the DD target group requires that documentation of the qualifications of case managers must be maintained by the case managers' employers (Montana State Plan, Supplement 1C to Attachment 3.1-A/B).

As of June 1, 2018, DD contractors are paid through a bundled payment rate, based on the previous month's membership, and cannot bill separately for services included in the bundle. The monthly payment rate shall not be paid unless an allowable TCM service is rendered to an

eligible recipient within the month (Montana State Plan, Attachment 4.19B, "Methods & Standards for Establishing Payment Rates").

The State agency's *Children's Mental Health Bureau Medicaid Services Provider Manual* states that to be determined eligible for SED services, a youth aged 6 and older [which applies to the age of the recipient for which we found an eligibility deficiency] must have been determined by a licensed mental health professional to have at least one of several designated mental disorders as a primary diagnosis with a severity specifier of moderate to severe when applied to the current condition of the youth; and must meet designated functional impairment criteria requirements. A youth must be reassessed annually (within 12 calendar months of the last determination) by a licensed mental health professional to determine whether the youth still meets these criteria.

APPENDIX F: SUMMARY OF ERRORS FOR EACH SAMPLE ITEM

Table 6: Errors Identified for Each Sample Item

Sample Number	Case Manager Did Not Have Experience Required by the State Plan Supplement	TCM Providers Could Not Provide Documentation To Support the Number of Units Billed	The State Agency Could Not Provide Documentation of Case Managers' Qualifications	Services Rendered Did Not Meet the Definition of Allowable TCM Services	TCM Services Rendered to a Recipient Who Was Not Eligible to Receive TCM Services
1					
2					
3					
4			X		
5					
6	X				
7					
8					
9					
10					
11					
12					
13					
14		X			
15					
16					
17		X			
18		X			
19					
20					
21		X			
22					
23					
24					
25					
26					
27					
28					

Sample Number	Case Manager Did Not Have Experience Required by the State Plan Supplement	TCM Providers Could Not Provide Documentation To Support the Number of Units Billed	The State Agency Could Not Provide Documentation of Case Managers' Qualifications	Services Rendered Did Not Meet the Definition of Allowable TCM Services	TCM Services Rendered to a Recipient Who Was Not Eligible to Receive TCM Services
29		X			
30					
31		X			
32					
33		X			
34					
35					
36					
37		X			
38					
39					
40					
41					
42	X				X
43					
44		X			
45					
46					
47					
48					
49	X				
50					
51			X		
52					
53					
54					
55					
56					
57					
58					
59					
60					
61					

Sample Number	Case Manager Did Not Have Experience Required by the State Plan Supplement	TCM Providers Could Not Provide Documentation To Support the Number of Units Billed	The State Agency Could Not Provide Documentation of Case Managers' Qualifications	Services Rendered Did Not Meet the Definition of Allowable TCM Services	TCM Services Rendered to a Recipient Who Was Not Eligible to Receive TCM Services
62					
63	X				
64					
65					
66					
67					
68					
69					
70					
71	X				
72					
73					
74					
75	X				
76	X				
77					
78	X				
79					
80					
81					
82					
83					
84					
85					
86					
87					
88	X				
89					
90					
91	X				
92	X				
93					
94					

Sample Number	Case Manager Did Not Have Experience Required by the State Plan Supplement	TCM Providers Could Not Provide Documentation To Support the Number of Units Billed	The State Agency Could Not Provide Documentation of Case Managers' Qualifications	Services Rendered Did Not Meet the Definition of Allowable TCM Services	TCM Services Rendered to a Recipient Who Was Not Eligible to Receive TCM Services
95					
96					
97					
98					
99	X				
100					
101					
102					
103	X				
104					
105	X			X	
106					
107		X			
108					
109					
110					
111	X				
112	X				
113					
114					
115					
116					
117	X				
118	X				
119					
120					
121	X				
122	X				
123			X		
124					
125	X				
126					
127					

Sample Number	Case Manager Did Not Have Experience Required by the State Plan Supplement	TCM Providers Could Not Provide Documentation To Support the Number of Units Billed	The State Agency Could Not Provide Documentation of Case Managers' Qualifications	Services Rendered Did Not Meet the Definition of Allowable TCM Services	TCM Services Rendered to a Recipient Who Was Not Eligible to Receive TCM Services
128	X				
129	X				
130					
131					
132					
133					
134					
135	X				
136	X				
137	X				
138					
139					
140					
141		X			
142	X				
143				X	
144					
145					
146					
147					
148					
149		X			
150					
Totals	**27**	**12**	**3**	**2**	**1**

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Greg Gianforte, Governor

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July 25, 2022

James I. Korn
Regional Inspector General for Audit Services
Office of Audit Services, Region VII, OIG
601 East 12th Street, Room 0429
Kansas City, MO 64106

RE: Draft Audit Report A-07-21-03246

Dear Mr. Korn:

This letter is in response to the U.S. Department of Health and Human Services Office of Inspector General (OIG) draft report, *Montana Claimed Federal Medicaid Reimbursement for almost $5.4 Million in Targeted Case Management Services That Did Not Comply With Federal and State Requirements,* A-07-21-03246 (hereafter "Draft Audit Report").

The Montana Department of Public Health and Human Services ("DPHHS," "Montana," or "the State") disagrees with the Draft Audit Report's recommended disallowance of $5,394,519 (Federal share) in overpayments. As explained below, 10 of the 45 samples identified as unallowable by the Draft Audit Report are in fact consistent with state and federal law and policy and should not be factored into the extrapolation methodology used by OIG to estimate the total dollar value of the State agency's unallowable payments.

OIG Recommendation 1: *Montana Department of Public Health and Human Services refund to the Federal Government $5,394,519 (Federal share) in overpayments.*

Montana does not concur with this recommendation because DPHHS can establish that 10 of the 45 samples identified as unallowed are in fact consistent with state and federal law and policy. OIG selected a stratified random sample of 150 grouped line samples and identified 45 of the 150 sampled groups were at least partially unallowable because they had at least one error. Montana reviewed each finding and does not concur with 10 findings. These are summarized in the table below and individually addressed by sample number.

Type of Deficiency	Samples Containing Deficiency	Montana Concurs	Montana does not Concur
Case manager did not have required experience	28	23	4
TCM provider could not provide documentation to support number of units billed for TCM services	13	10	3
State agency could not provide case manager qualification documentation	3	0	3
TCM provider billed services that did not meet the definition of TCM services	2	2	0
TCM provider billed services for a recipient who was not eligible	1	1	0

State and Federal Requirements for Case Managers Providing TCM

The majority of the samples identified by OIG's Draft Audit Report as unallowable pertain to targeted case manager experience and whether a case manager has the required one-year of relevant experience. As required by federal regulations, the State Plan Amendments (SPA) for each targeted group must specify provider qualifications that are reasonably related to the population being served and the case manager services furnished. (42 CFR § 441.18(a)(8)(v)). Montana's State Plan requires individuals who provide targeted case management (TCM) services to have the following qualifications for each of the targeted groups as follows:

> Developmental Disabilities:
> A targeted case manager must be employed by the Department's DDP [Developmental Disabilities Program] or a targeted case management provider contracting with the DDP. The following requirements are in addition to those contained in rule and statutory provisions generally applicable to Medicaid providers. A targeted case manager must meet the following criteria:
>
> - A bachelor's degree in social work or a related field from an accredited college and one year's experience in human services; or
> - Experience providing TCM services, comparable in scope and responsibility to that provided by targeted case managers, to persons with a developmental disability for at least five years.
>
> Youth with Serious Emotional Disturbance (SED):
> Qualified providers are required to be licensed mental health centers with a case management endorsement. An endorsement is a process facilitated through the department's Quality Assurance Division (QAD) and includes an application with a request for a youth intensive case management endorsement. QAD is the licensure

authority for the state and oversees the endorsement. Medicaid adopts and incorporates licensing standards for mental health services endorsed by QAD.

Mental health centers providing TCM services to SED youth must have a program supervisor and employ case managers who have a bachelor's degree in a human services field with at least one year of full-time experience serving individuals with SED. Individuals with other educational background who have developed the necessary skills, may also be employed as case managers. The mental health center's case management position description must contain equivalency provisions.

Adults with Severe Disabling Mental Illness (SDMI):
Mental Health Centers providing TCM services to adults with SDMI must have a program supervisor and employ case managers who have a bachelor's degree in a human services field with at least one year of full-time experience serving individuals with SDMI. Individuals with other educational background, who have developed the necessary skills, may also be employed as case managers. The Mental Health Center's case management position description must contain equivalency provisions.

Additionally, the Administrative Rules of Montana relating to the maintenance of personnel records, including those of targeted case managers, include the three components listed below. Montana does not currently require providers of TCM for SDM and SED populations to maintain evidence of college degree:

37.106.1918 MENTAL HEALTH CENTER: PERSONNEL RECORDS
(1) For each employee or contracted individual, the mental health center shall maintain the following information on file:
(a) a current job description;
(b) if a licensed mental health professional, documentation of current licensure and certification; and
(c) dated documentation of the individual's involvement in orientation, training, and continuing education activities.

DPHHS is Entitled to Deference in Interpreting State Plan requirements

A state is entitled to deference in its interpretation of its own state plan, so long as that interpretation is an official interpretation and is reasonable in light of the language of the state plan as a whole and the applicable federal requirements. *Missouri Dept. of Social Services*, DAB No. 1412 (1993). "[I]n evaluating whether a state's proposed interpretation of its Medicaid state plan is entitled to deference, the Board will consider whether the interpretation reflects the state's established and consistent administrative practices." *Virginia Dept. of Medical Assistance Services*, Docket No. A-16-9, 2016 HHSDAB LEXIS 293.

Thus, the State's interpretation with respect to whether an individual's experience and credentials meet the minimum requirements of the Montana State Plan should be given deference. DPHHS recognizes the State Plan and the goal of ensuring that eligible individuals receive the benefits of targeted case management must be understood and interpreted in light of Montana's circumstances. Montana's economic, demographic, and geographic circumstances

present unique challenges in ensuring eligible individuals receive medically necessary care through the Medicaid program and, in particular, targeted case management services. Recognizing these challenges, as well as the challenges of a frontier state, DPHHS reasonably interprets experience broadly to include providing services to individuals with developmental disabilities, SED, and SDMI, across an array of general populations, including high-risk populations in homeless shelters, and in a variety of settings, including law enforcement and juvenile correctional settings. It is noted that our target populations of individuals with developmental disabilities, SED, or SDMI often present as co-occurring conditions.

Nonconcurrence Samples
Montana DPHHS does not concur with the following samples for the reasons set forth below.

Sample Number 4, 51, and 123:
The Draft Audit Report concluded that the State could not provide documentation of case manager qualifications for services provided to individuals with developmental disabilities.

These three samples relate to a now-defunct contractor that provided targeted case management services on behalf of DPHHS. In April 2018, a developmental disabilities case management provider abruptly closed its doors, giving DPHHS only eight days' notice that it would no longer provide targeted case management and other care services to individuals with developmental disabilities. With limited notice, DPHHS prioritized finding placements and TCM services for impacted clients. The department was not able to secure the employment records of this provider before it closed its doors, shuttered its operations, and dissolved its governing structure. Thus, DPHHS is not now able to obtain resumes, job applications, copies of diplomas or transcripts, and other documents to substantiate any targeted case manager's education and experience.

DPHHS acknowledges that the State cannot provide documentation of targeted case manager qualifications for these specific samples, but notes that the closing of this provider was an anomalous situation that was outside the control of the State and unlikely to occur again. Had it not gone out of business, it is likely that the provider would have been able to supply the necessary documentation to demonstrate the TCM employees had the requisite qualifications, as is the case with the majority of the 150 samples reviewed by OIG. For these reasons, Sample Numbers 4, 51, and 123 should not be included in the statistical extrapolation used to estimate the total dollar value of the State agency's unallowable payments. The situation with respect to this provider is not representative of the TCM providers and services in Montana. Thus, including these samples in the statistical extrapolation would not be reasonable, and would unfairly penalize Montana.

Sample Number 23: The Draft Audit Report concluded that the TCM provider could not provide documentation to support the number of units billed.

DPHHS is providing the complete case note relating to this sample to demonstrate that the requisite documentation existed to support the number of units billed. On October 8, 2021, DPHHS provided to OIG a case note report that gave only an access code in the "case note" column and did not show the actual case note. Realizing this deficiency, DPHHS now submits the case note report with the necessary case notes, which demonstrates there was the requisite

documentation to support the number of units billed. See Exhibit 1 in *CONFIDENTIAL: Supplemental Source Documentation Montana Responses to Draft Audit Report A-07-21-03246* (Supplemental Documentation Memo).

DPHHS, therefore, submits that this sample should be deemed allowable and should not be included as an error relating to this audit.

Sample Number 61: The Draft Audit Report concluded that the case manager did not have the experience required by the State Plan Amendment to provide targeted case management services to youth with SED.

Pursuant to the requirement for targeted case manager for youth with SED, a case manager must have a bachelor's degree in a human services field with at least one year of full-time experience serving individuals with SED.

DPHHS is providing the targeted case manager's college transcript, application for employment, background check, and training records as Exhibit 2 in the Confidential Supplemental Source Documentation Memo. From September 19, 2016, to May 15, 2018 (20 months), the case manager worked at Pine Hills Correctional Facility as a correctional counselor. DPHHS is providing the job description, provided by the Montana Department of Corrections, for the position identified on his resume, as Exhibit 3 in the Confidential Supplemental Source Documentation Memo.

Pine Hills Correctional Facility is a 38-bed secure facility that holds adjudicated youthful male offenders, ages 10-17. Pine Hills is also an accredited school that has a state-approved educational curriculum for the youth who are incarcerated there. As a correctional counselor, this case manager was responsible for ensuring the safe and secure operation of the facility. The job description for the position he held is as follows: "Provide an intense therapeutic process that emphasizes behavioral change through self-help and peer support, which enhances reentry into the community through mentoring, facilitation, instruction and counseling. Provide group facilitation in accordance with training and written guidelines as directed by Clinical Services staff; support tutoring educational/vocational and life skill training. . . Present the clinical therapeutic unit as a tool for global self-change. . . Promote pro-social values including: honesty, self-responsibility, work ethic, and community responsibility, appropriate boundaries, positive peer pressure, including confrontation and supportive feedback aimed at changing behaviors and attitudes."

A July 2017 Literature Review issued by the Office of Juvenile Justice and Delinquency Prevention of the U.S. Department of Justice (OJJDP) states: "Multiple studies confirm that a large proportion of youths in the juvenile justice system have a diagnosable mental health disorder. Studies have suggested that about two thirds of youth in detention or correctional setting have at least one diagnosable mental health problem, compared with an estimated 9 to 22 percent in the general youth population." (*Intersection between Mental Health and the Juvenile Justice System*, p. 2-3, https://ojjdp.ojp.gov/model-programs-guide/literature-reviews/intsection_between_mental_health_and_the_juvenile_justice_system.pdf) It notes that a systematic review found that youths in detention and correctional facilities were almost 10 times more likely to suffer from psychosis than youths in the general population. (*Id*. at 3.) The

Literature Review is attached hereto this response as Exhibit 4 of the Confidential Supplemental Source Documentation Memo.

Although the Montana Department of Corrections cannot provide data on the incidence of mental health diagnoses among the youth incarcerated at Pine Hills, it is reasonable to extrapolate information from the OJJDP Literature Review and conclude that a majority of the youth incarcerated at Pine Hills Correctional Facility have at least one diagnosable mental health problem and are at significant risk to suffer from psychosis. Thus, DPHHS believes that this case manager's 20-months of experience as a correctional counselor at Pine Hills Correctional Facility meets the requirement of one year of experience serving youth with SED.

Sample Number 71: The Draft Audit Report concluded that a case manager serving a client with SDMI, did not have the experience required by the State Plan Amendment. Two case managers provided case management services to this client within this sample.

Pursuant to the requirement for targeted case manager for adults with severe disabling mental illness (SDMI), a case manager must have a bachelor's degree in a human services field with at least one year of full-time experience serving individuals with SDMI. Individuals with other educational background, who have developed the necessary skills, may also be employed as case managers. The Mental Health Center's case management position description must contain equivalency provisions.

DPHHS is providing February 15, 2018, employment information for case manager #1 when she applied for the position of case manager at this provider as Exhibit 5 of the Confidential Supplemental Source Documentation Memo. She received a bachelor's degree in anthropology and linguistics in 2017. When she applied for the targeted case manager position, case manager #1 had worked at the same provider as a community-based psychiatric rehab and support employee working with clients with SDMI, since February 2017. Thus, case manager #1 had one year experience working one-on-one with people with SDMI when she applied for the promotion to targeted case manager at the provider. DPHHS believes OIG identified this sample as unallowed because it did not have case manager #1's relevant resume. In responding to a request for additional information about case manager #1, it was identified that the provider had originally provided the department with an outdated resume that did not list her one-year of experience as a psychiatric rehab and support employee.

DPHHS also is providing the resume of case manager #2, as Exhibit 6 of the Confidential Supplemental Source Documentation Memo. Case manager #2 briefly provided case manager services when case manager #1 was on vacation. Case manager #2's resume documents that she graduated magna cum laude from college in 2014 with a bachelor's degree in sociology. From April 2013 to December 2017, case manager #2 worked at social service agencies serving individuals with mental disability. From April 2013 to August 2014, she worked at a provider of developmental disability service provider as a habilitation technician, and from February 2015 to December 2017 at another developmental disability service provider as a habilitation technician - tier II. Thus, case manager #2 had a total of 3 years and 8 months experience in human services serving individuals with developmental disabilities. According to recent research, the pooled prevalence of any co-occurring psychiatric disorders in intellectual disability was 33.6%.

(*Toward Actionable Practice Parameters for "Dual Diagnosis": Principles of Assessment and Management for Co-Occurring Psychiatric and Intellectual/Developmental Disability*, https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6995447/.) This article is submitted as Exhibit 7 of the Confidential Supplemental Source Documentation Memo.

Sample Number 107: The Draft Audit Report concluded that the TCM provider could not provide documentation to support the number of units billed.

DPHHS is resubmitting 50 pages of case notes that were previously submitted in June 2021 in response to OIG's request for additional documentation as Exhibit 8 of the Confidential Supplemental Source Documentation Memo. Upon review, DPHHS believes the case notes support the number of units billed. Each of the case notes, which are named Document Reports, is comprised of a two-page submittal. Page 1 notes the duration of time spent providing targeted case management and the number of units billed. "Service Unit(s)" is the line item that identifies the number of units billed. Some of the Document Reports did not result in billing of any service units. For example, on February 6, 2019, the targeted case manager notes receipt of "Message from client friend, 'Client' at NeuroBehavioral Unit." Although this contact is documented, the provider did not submit for payment of any service units. DPHHS has again reviewed this documentation and believes it accurately documents the number of service units billed.

DPHHS, therefore, does not concur with the finding for sample number 107.

Sample Number 117: The Draft Audit Report concluded that the case manager did not have the experience required by State Plan Amendment to provide targeted case management to individuals with SDMI.

Pursuant to the requirement for targeted case manager for adults with severe disabling mental illness (SDMI), a case manager must have a bachelor's degree in a human services field with at least one year of full-time experience serving individuals with SDMI. Individuals with other educational background, who have developed the necessary skills, may also be employed as case managers. The Mental Health Center's case management position description must contain equivalency provisions.

DPHHS is providing the resume of the case manager as Exhibit 9 of the Confidential Supplemental Source Documentation Memo, which documents that she has a bachelor's degree in social work, a human services field, and was employed for 11 years as a police officer in the New Orleans Police Department, two years in home health, and one year at the Butte Rescue Mission's homeless shelter. Additionally, DPPHHS reached out to the provider agency which responded that the case manager had worked for one year at the agency as a community-based rehabilitation employee, which gave her the requisite one-year experience working with individuals with SDMI. This provider agency is a licensed mental health center that offers Outpatient Psychotherapy, Adult Case Management, Youth Case Management, Adult Group Homes and Community Based Rehabilitation Support. The Community Based Rehabilitation and Support Staff provide individual and group intervention to persons with a SDMI diagnosis. Interventions include evaluating and assessing barriers that affect independent living, addressing communication skills, identifying and implementing symptom management skills, developing

social support system, and immediate crisis interventions. DPHHS is providing the email clarification from the provider agency as Exhibit 10 of the Confidential Supplemental Source Documentation Memo. DPHHS believes the case manager had the requisite experience to serve as a targeted case manager to individuals with SDMI.

Sample Number 136: The Draft Audit Report concluded that the case manager did not have the experience required by State Plan Amendment to provide targeted case management to individuals with SDMI.

Pursuant to the requirement for targeted case manager for adults with severe disabling mental illness (SDMI), a case manager must have a bachelor's degree in a human services field with at least one year of full-time experience serving individuals with SDMI. Individuals with other educational background, who have developed the necessary skills, may also be employed as case managers. The Mental Health Center's case management position description must contain equivalency provisions.

DPHHS concurs in part and does not concur in part. The Draft Audit Report concluded that 35 units billed by this provider were provided by a case manager who did not have required experience. Upon review, DPHHS has determined that 4 of the 35 units were provided by a case manager, whose resume and diploma are included as Exhibit 11 of the Confidential Supplemental Source Documentation Memo. This case manager has a bachelor's degree in human services, and from March 1999 to April 2001, she worked at a Montana mental health center as a group home supervisor. This mental health center provides comprehensive treatment programs for adults and children with mental health conditions. This case manager's resume articulates that she worked with the adult population at the mental health center. Thus, she had the requisite education and experience to provide TCM services under the relevant SPA.

DPHHS submits as Exhibit 12 of the Confidential Supplemental Source Documentation Memo, case notes of the four units relating to sample number 136 are allowable and should not be included as unallowable in the Draft Audit Report.

Sample Number 149: The Draft Audit Report concluded that the TCM provider could not provide documentation to support the number of units billed for a client of a developmental disabilities service provider.

DPHHS does not concur with this finding. The lack of documentation relates to an error by the case manager on one case note on November 12, 2017. The case manager selected AM instead of PM to document a brief telephone call to the client in which she changed an appointment from Tuesday to Thursday. "He said that was fine with him." This brief call was mistakenly documented as beginning at 6 a.m. in the morning and concluding at 6:08 in the evening. A review of all of the other contacts relating to the client document times that are consistent with the nature of the contact described.

For this reason, DPHHS does not concur with the finding relating to this client. DPHHS further submits that this one error is not representative of either the provider in particular or Montana

TCM providers in general. Accordingly, this sample should not be included in the statistical extrapolation used to estimate the total dollar value of the State agency's unallowable claims.

OIG Recommendation 2: *Montana Department of Public Health and Human Services ensure that it always follows its established policies and procedures by:*

- *reviewing TCM providers' case manager hiring practices to verify adherence with the State plan's experience requirements and to ensure that case managers' qualifications were documented,*
- *implementing a process to review billed services to verify that they were allowable and properly documented, and*
- *reviewing target group eligibility documentation to ensure that all individuals receiving services were eligible.*

Montana Response: Montana's Department of Public Health and Human Services will continue to improve program quality and strengthen licensing and utilization reviews. Additionally, Montana Department of Public Health and Human Services has implemented a care management system that improves the Department's ability to monitor TCM documentation. The care management system is being implemented across DPHHS's Medicaid agency and will contain all program data, case notes, and benefits for individual members, including TCM case notes.

OIG Recommendation 3: *Montana Department of Public Health and Human Services require TCM providers to comply with established policies and procedures in order to ensure that:*

- *case managers who render TCM services to recipients have the experience required by the State plan supplement,*
- *TCM providers maintain documentation to support the TCM services rendered,*
- *TCM providers maintain documentation to support that case managers are qualified to perform TCM services,*
- *the State agency does not pay TCM providers or claim Federal Medicaid reimbursement for services that are not allowable TCM services, and*
- *recipients receiving TCM services are eligible to receive those services.*

Montana Response: Montana's Department of Public Health and Human Services will engage in additional provider education on targeted case manager requirements through written provider notices, provider trainings, and collaboration with provider associations. Additionally, MT DPHHS will work internally with Montana DPHHS's Office of Inspector General to increase communication of requirements and targeted corrective action during licensing and utilization reviews moving forward.

Additionally, Montana Department of Public Health and Human Services has implemented a care management system that improves the Department's ability to monitor TCM documentation. The care management system is being implemented across DPHHS's

Medicaid agency and will contain all program data, case notes, and benefits for individual members, including TCM case notes.

If you have questions, please contact Mary Eve Kulawik, Medicaid Analyst, at (406) 444-2584, or mkulawik@mt.gov.

Sincerely,

/s/ Michael Randol

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Montana State Medicaid Director

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