Office of Audit Services
Region I
John F. Kennedy Federal Building
Boston, MA 02203
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JUN 16 2003

CIN: A-01-03-00003

Ms. Patricia A. Wilson-Coker, Commissioner
Department of Social Services
State of Connecticut
25 Sigourney Street
Hartford, Connecticut 06106

Dear Ms. Wilson-Coker:

Enclosed are two copies of the U.S. Department of Health and Human Services (HHS), Office of Inspector General (OIG), Office of Audit Services' (OAS) report entitled, "Review of Medicaid Drug Rebate Collections – State of Connecticut Department of Social Services As of June 30, 2002." A copy of this report will be forwarded to the action official noted below for her review and any action deemed necessary.

Final determination as to actions taken on all matters reported will be made by the HHS action official named below. We request that you respond to the HHS action official within 30 days from the date of this letter. Your response should present any comments or additional information that you believe may have a bearing on the final determination.

In accordance with the principles of the Freedom of Information Act (5 U.S.C. 552, as amended by Public Law 104-231), OIG, OAS reports issued to the Department's grantees and contractors are made available to members of the press and general public to the extent information contained therein is not subject to exemptions in the Act which the Department chooses to exercise. (See 45 CFR Part 5)

To facilitate identification, please refer to Common Identification Number A-01-03-00003 in all correspondence relating to this report.

Sincerely yours,

Michael J. Armstrong

Michael J. Armstrong
Regional Inspector General
for Audit Services

Enclosures – as stated

**Direct Reply to HHS Action Official:**

Charlotte Yeh, M.D.
Regional Administrator
Centers for Medicare and Medicaid Services – Region I
Department of Health and Human Services
Room 2325, JFK Federal Building
Boston, Massachusetts 02203

Department of Health and Human Services

OFFICE OF
INSPECTOR GENERAL

# REVIEW OF MEDICAID DRUG REBATE COLLECTIONS STATE OF CONNECTICUT DEPARTMENT OF SOCIAL SERVICES AS OF JUNE 30, 2002


June 2003
A-01-03-00003

# *Office of Inspector General*

**http://oig.hhs.gov**

The mission of the Office of Inspector General (OIG), as mandated by Public Law 95-452, as amended, is to protect the integrity of the Department of Health and Human Services (HHS) programs, as well as the health and welfare of beneficiaries served by those programs. This statutory mission is carried out through a nationwide network of audits, investigations, and inspections conducted by the following operating components:

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## *Office of Counsel to the Inspector General*

The Office of Counsel to the Inspector General (OCIG) provides general legal services to OIG, rendering advice and opinions on HHS programs and operations and providing all legal support in OIG's internal operations. The OCIG imposes program exclusions and civil monetary penalties on health care providers and litigates those actions within the department. The OCIG also represents OIG in the global settlement of cases arising under the Civil False Claims Act, develops and monitors corporate integrity agreements, develops model compliance plans, renders advisory opinions on OIG sanctions to the health care community, and issues fraud alerts and other industry guidance.

# EXECUTIVE SUMMARY

## BACKGROUND

The Medicaid Drug Rebate Program was established in legislation enacted by Congress in the Omnibus Budget Reconciliation Act of 1990. Responsibility for the rebate program is shared among the drug manufacturers, the Centers for Medicare and Medicaid Services (CMS) and individual states. The legislation was effective January 1, 1991. In Connecticut, the Department of Social Services (State agency) is responsible for administering the drug rebate program. The State agency contracts much of its drug rebate activities to the Electronic Data Systems (EDS) Corporation.

The Medicaid program requires states to present a complete, accurate, and full disclosure of all pending drug rebates and collections. States are required to offset their Federal drawdown by the Federal share of drug rebates collected.

## OBJECTIVES

The objectives of our audit were to determine (1) the extent of any uncollected drug rebates as of June 30, 2002, (2) whether the State agency has established adequate internal controls with regard to the Medicaid drug rebate program, and (3) the effectiveness of the actions taken by the State agency to resolve outstanding disputes.

## RESULTS OF REVIEW

For the period under review, we found that controls were generally in place to record and track the collection of drug rebates. In addition, we noted that the Federal share of drug rebate amounts was properly offset from Federal Medicaid reimbursement. However, we found that procedures for reconciling and reporting the pending drug rebate amounts and the corresponding aging of these rebates on the Medicaid Quarterly Expenditure Report submitted to CMS were not established. As a result, the amount reported as the pending balance at June 30, 2002 was inaccurate. Based on our review, we believe that the pending balance was understated by about $14 million (Federal share).

## RECOMMENDATION

We recommend that the State agency ensure procedures are established to provide accurate pending rebate amounts and properly present an aging schedule of its drug rebate receivables in its quarterly reports to CMS. We are pleased to note that the State agency is coordinating with its drug rebate contractor, EDS, to develop the necessary supporting reports needed for providing accurate drug rebate receivables and corresponding aging schedules.

The State agency, in its May 30, 2003 response to our draft report (see APPENDIX), agreed with our audit finding and recommendation and indicated the corrective actions it has taken.

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# INTRODUCTION

## BACKGROUND

### MEDICAID DRUG REBATE PROGRAM

The Medicaid Drug Rebate Program was established in legislation enacted by Congress in the Omnibus Budget Reconciliation Act of 1990. Responsibility for the rebate program is shared among the drug manufacturers, the Centers for Medicare and Medicaid Services (CMS) and individual states. In Connecticut, the Department of Social Services (State agency) is responsible for administering the drug rebate program. The State agency contracts much of its drug rebate activities to the Electronic Data Systems (EDS) Corporation.

Drug manufacturers, in order to have their products covered under the Medicaid program, are required to enter into and have in effect a rebate agreement with CMS. Per the agreement, the manufacturer is required to submit a listing to CMS of all covered outpatient drugs, and to report their average manufacturer price (AMP) and best price information for each covered outpatient drug.

The CMS accumulates the AMP and best price data from the manufacturers, obtains the Consumer Price Index-Urban (CPI-U), and uses this information to calculate a unit rebate amount (URA) for each drug. The URA is the per unit (i.e. per pill) dollar value that should be paid by the manufacturer to the state for each unit of a specifically dispensed drug. The URA consists of (1) a basic rebate amount for all covered outpatient drugs, and (2) the amount by which the increase in the AMP exceeds the increase in the CPI-U from the base period to the month before the calendar quarter of the rebate. The latter rebate applies only to single source and innovate multiple source drugs, and does not apply to a newly marketed drug until it has been on the market for a full calendar quarter. The CMS provides the URAs to the states, and the states use the URAs to calculate the rebate amounts owed by the manufacturer.

Manufacturers often adjust the URA as updated pricing information becomes available. The rate may change several times after the initial reporting. The manufacturers include with their payment to each state a Reconciliation of State Invoice (ROSI) that details the overall payment to the National Drug Code level. If the current period payment includes any adjustments to the prior quarters rates, then the manufacturer submits a Prior Quarter Adjustment Statement (PQAS), which details all adjustments to prior quarter payments.

The Medicaid program requires states to present a complete, accurate, and full disclosure of all pending drug rebates and collections. The State agency reports its drug rebate collection activity to CMS on the quarterly CMS 64.9R Medicaid Drug Rebate Schedule of the Quarterly Medicaid Statement of Expenditures for the Medical Assistance Program (Form CMS-64). The CMS 64.9R report provides a summary of drug rebate activity for the quarter and a summary aging schedule for pending drug rebate receivables.

For the year ending June 30, 2002, the State agency reported $33.5 million (Federal share) in drug rebate collections. Also, as of June 30, 2002, the State agency reported a credit balance of $1.9 million (Federal share) in total pending drug rebate accounts receivable.

## OBJECTIVES, SCOPE AND METHODOLOGY

Our review was made in accordance with generally accepted government auditing standards. The objectives of the audit were to determine (1) the extent of any uncollected drug rebates as of June 30, 2002, (2) whether the State agency has established adequate internal controls with regard to the Medicaid drug rebate program, and (3) the effectiveness of the actions taken by the State agency to resolve outstanding disputes.

We concentrated our review on the drug rebate policies, procedures and controls of the State agency and its contractor, EDS, as of the quarter ending June 30, 2002. We also reviewed accounts receivable information related to prior periods and interviewed State agency and EDS staff to understand how the Medicaid drug rebate program has operated since its inception.

We limited consideration of the internal control structure to those controls concerning drug rebate reporting because the objective of our review did not require an understanding or assessment of the complete internal control structure at the State agency.

To accomplish our objectives, we:

- reviewed criteria related to the billing, collection, and reporting of the Medicaid drug rebate program,
- interviewed State of Connecticut Auditors of Public Accounts' staff and reviewed their audit work of the drug rebate program,
- interviewed State agency and EDS staff to determine the policies, procedures and controls that existed with regard to the Medicaid drug rebate program,
- reconciled the drug rebate offset reported on the June 30, 2002 to supporting documentation, and
- reviewed drug rebate accounts receivable records and compared this data to the CMS 64.9R report for June 30, 2002.

Our fieldwork was performed from December 2002 through February 2003 at the State agency in Hartford, Connecticut and at EDS's offices in New Britain, Connecticut.

The State agency's response to our draft report is appended to this report (see APPENDIX).

## FINDINGS AND RECOMMENDATION

For the period under review, we found that controls were generally in place to record and track the collection of drug rebates. In addition, we noted that the Federal share of drug rebate amounts was properly offset from Federal Medicaid reimbursement. However, we found that the State agency had not established procedures for reconciling and reporting its pending drug rebate amounts on the CMS 64.9R report. As a result, the amount reported at June 30, 2002 was inaccurate. Based on our review, we believe that the pending balance was understated by about $14 million (Federal share).

As part of its quarterly reporting process to CMS, the State agency is required to report to CMS summary information on its drug rebate program. Such information is to be included quarterly on the CMS 64.9R Medicaid Drug Rebate Schedule report. Instructions for this report, per CMS State Medicaid Manual §2000.7(B), require the State Agency to:

> "…submit to HCFA [CMS] summary information on pending drug rebates at the beginning of the quarter, the amounts of drug rebates computed for all drug labelers, amounts written off, other adjustments, remaining pending drug rebates and amounts collected, and reduce your claim for Federal reimbursement by the Federal share of amounts received. All pending drug rebates must be aged by comparing the dates the pending rebate was established with the ending date of the period shown on the Quarterly Expenditure Report, Form HCFA [CMS] 64…."

From examination of supporting documentation supplied by the State agency and EDS, we found the State agency properly reduced its claim for Federal reimbursement by the appropriate share of drug rebates collected during the quarter. In addition, we found that the State agency properly wrote off uncollectible rebates and otherwise resolved disputed rebates.

However, we found that the State Agency did not provide accurate information in reporting the amount of pending drug rebates. In this regard, the State agency only reported quarterly rebate invoiced amounts and collections with the difference identified as the amount outstanding. As of June 30, 2002, the State agency reported a credit balance of about $1.9 million (Federal share) as the total pending drug rebate accounts receivable. Our review of documentation available at the State agency disclosed that the actual outstanding rebate amount was about $15.9 million (Federal share). We also noted that about 98 percent of these outstanding rebates were related to billings made in the last 6 months.

Although the State agency appears to be resolving outstanding rebates in a timely manner, it is our opinion that the State agency needs to correct the reporting of pending rebates to provide CMS with an accurate measure of what needs to be collected. We believe that corrective action will also allow for the proper aging of outstanding rebates

and provide a management tool for determining the likelihood of collection of all outstanding rebates.

We discussed this condition with State agency staff. Based on our discussions and review, we found that EDS has the capability of compiling accurate pending drug rebates and can provide the related aging schedules for use in the quarterly CMS 64.9R report.

**RECOMMENDATION**

We recommend that the State Agency ensure procedures are established to provide accurate pending rebate amounts and properly present an aging schedule of its drug rebate receivables in its quarterly reports to CMS. We are pleased to note that the State agency is coordinating with EDS to develop the necessary supporting reports for providing accurate drug rebate receivables and corresponding aging schedules for the CMS 64.9R.

**AUDITEE RESPONSE**

In its May 30, 2003 response to our draft report (see APPENDIX), the State agency agreed with our audit finding and recommendation. The State agency stated that it will provide accurate pending drug rebate amounts and will properly ensure that an aging schedule of drug rebate receivables is presented to CMS in its quarterly reports. Through EDS, the State agency is in the process of developing all necessary reports needed to accurately report this information on the CMS 64.9R.

# A P P E N D I X

# STATE OF CONNECTICUT

*DEPARTMENT OF SOCIAL SERVICES*

## OFFICE OF THE COMMISSIONER

Patricia A. Wilson-Coker, JD, MSW
COMMISSIONER

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May 30, 2003

Michael J. Armstrong
Regional Inspector General for Audit Services
Department of Health & Human Services
Office of the Inspector General
John F. Kennedy Federal Building
Boston, Massachusetts 02203

CIN: A-01-03-00003

Dear Mr. Armstrong:

In response to your correspondence dated April 29, 2003 concerning the draft audit report entitled "Review of Medicaid Drug Rebate Collections – State of Connecticut Department of Social Services as of June 30, 2002", please consider the following state response for inclusion in the final report.

The Department of Social Services agrees with the finding/recommendation identified in the audit and have taken steps to ensure that adequate procedures are established. The Department will provide accurate pending rebate amounts and will properly ensure that an aging schedule of drug rebate receivables is presented to CMS in its quarterly reports. At the Department's direction, our fiscal intermediary is in the process of developing all necessary reports needed to accurately report this information in the CMS 64.9R.

I appreciate the opportunity to respond to this audit. If there are any further questions, please feel free to contact Evelyn Dudley, Pharmacy Program Manager, at (860) 424-5654.

Sincerely,

Patricia A. Wilson-Coker
Commissioner

C: M. Starkowski, Deputy Commissioner
D. Parrella, Director, Medical Care Administration
M. Mains, Director, Medical Operations
L. Voghel, Director, Fiscal Analysis
E. Dudley, Manager, Pharmacy Programs