

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**NEW HAMPSHIRE DID NOT
ALWAYS CORRECTLY CLAIM
MEDICAID PAYMENTS FOR
SCHOOL-BASED
TRANSPORTATION SERVICES**

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Office of Inspector General

<http://oig.hhs.gov>

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OFFICE OF AUDIT SERVICES FINDINGS AND OPINIONS

The designation of financial or management practices as questionable, a recommendation for the disallowance of costs incurred or claimed, and any other conclusions and recommendations in this report represent the findings and opinions of OAS. Authorized officials of the HHS operating divisions will make final determination on these matters.

EXECUTIVE SUMMARY

BACKGROUND

Pursuant to Title XIX of the Social Security Act (the Act), the Medicaid program provides medical assistance to certain low-income individuals and individuals with disabilities. The Federal and State Governments jointly fund and administer the Medicaid program. At the Federal level, the Centers for Medicare & Medicaid Services (CMS) administers the program. Each State administers its Medicaid program in accordance with a CMS-approved State plan. Although the State has considerable flexibility in designing and operating its Medicaid program, it must comply with applicable Federal requirements. In New Hampshire, the Department of Health and Human Services, Office of Medicaid Business and Policy (State agency), administers the Medicaid program.

Section 411(k)(13) of the Medicare Catastrophic Coverage Act of 1988 (P.L. No. 100-360) amended section 1903(c) of the Act to permit Medicaid payment for medical services provided to children under the Individuals with Disabilities Education Act through a child's individualized education plan (IEP). Covered services may include, but are not limited to, physical therapy, occupational therapy, speech pathology/therapy services, psychological counseling, nursing, and transportation services.

New Hampshire's Medicaid to Schools Program allows school administrative units (SAU) to receive Federal reimbursement through the State agency for medically related services provided pursuant to a child's IEP. During calendar years 2006 through 2009, the State agency claimed \$28,611,539 (\$15,214,592 Federal share) for Medicaid payments for school-based transportation services made to New Hampshire SAUs. We limited our review to 227,553 claim line items (items) for transportation services, totaling \$15,766,315 (\$8,375,998 Federal share), that we identified as having a high risk for overpayment. We reviewed a random sample of 115 items for transportation services totaling \$302,900 (\$153,133 Federal share).

OBJECTIVE

Our objective was to determine whether the State agency claimed Federal Medicaid reimbursement for school-based transportation services in accordance with Federal and State requirements.

SUMMARY OF FINDINGS

The State agency did not always claim Federal Medicaid reimbursement for school-based transportation services submitted by SAUs in accordance with Federal and State requirements. Of the 115 items in our random sample, 37 items met Federal and State requirements. However, the remaining 78 items had 1 or more school-based transportation services, totaling \$272,327 (\$136,397 Federal share), that were not reimbursable. Based on our results, we estimated that the State agency improperly claimed \$5,086,636 (\$2,695,809 Federal share) for Medicaid payments made to SAUs.

The deficiencies occurred because the State agency issued incorrect guidance to the SAUs based on its misunderstanding of Federal requirements. In addition, the State agency did not adequately monitor the claims for Medicaid school-based transportation services submitted by SAUs.

RECOMMENDATIONS

We recommend that the State agency:

- refund \$2,695,809 to the Federal Government,
- work with CMS to review Medicaid payments made to SAUs after our audit period and refund any overpayments,
- strengthen its oversight of the New Hampshire Medicaid to Schools program to ensure that claims for school-based transportation services comply with Federal and State requirements, and
- issue new guidance on school-based transportation that is consistent with Federal requirements.

STATE AGENCY COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE

In written comments on our draft report, the State agency concurred in part and disagreed in part with our findings and recommendations. Specifically, the State agency agreed in general with our recommendations to strengthen its oversight of the New Hampshire Medicaid to Schools program and to issue new guidance on school-based transportation that is consistent with Federal requirements. However, the State agency disagreed with our findings for 11 of 78 items that we identified as having 1 or more transportation services that were not reimbursable. The State agency did not comment on the remaining 67 items, but stated that it reserves the right to provide additional documentation in the future.

In response to the State agency comments, we modified our findings for nine items and adjusted our monetary recommendation accordingly. However, we maintain that the State agency did not always claim Federal Medicaid reimbursement for school-based transportation services submitted by the SAUs in accordance with Federal and State requirements.

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

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INTRODUCTION

BACKGROUND

Medicaid Program

Pursuant to Title XIX of the Social Security Act (the Act), the Medicaid program provides medical assistance to certain low-income individuals and individuals with disabilities. The Federal and State Governments jointly fund and administer the Medicaid program. At the Federal level, the Centers for Medicare & Medicaid Services (CMS) administers the program. Each State administers its Medicaid program in accordance with a CMS-approved State plan. Although the State has considerable flexibility in designing and operating its Medicaid program, it must comply with applicable Federal requirements.

Medicaid Coverage of School-Based Transportation Services

Section 411(k)(13) of the Medicare Catastrophic Coverage Act of 1988 (P.L. No. 100-360) amended section 1903(c) of the Act to permit Medicaid payment for medical services provided to children under the Individuals with Disabilities Education Act (IDEA) (originally enacted as P.L. No. 91-230 in 1970) through a child's individualized education plan (IEP).

Federal and State rules require that school-based transportation services be (1) fully documented, (2) actually furnished, (3) documented in the child's IEP, and (4) provided to obtain a Medicaid-covered service (other than transportation).

In August 1997, CMS issued a guide entitled *Medicaid and School Health: A Technical Assistance Guide* (technical guide). According to the technical guide, school-based health services included in a child's IEP may be covered if all relevant statutory and regulatory requirements are met. In addition, the technical guide provides that a State may cover services included in a child's IEP as long as (1) the services are listed in section 1905(a) of the Act and are medically necessary; (2) all Federal and State regulations are followed, including those specifying provider qualifications; and (3) the services are included in the State plan or available under the Early and Periodic Screening, Diagnostic, and Treatment Medicaid benefit. Covered services may include, but are not limited to, physical therapy, occupational therapy, speech pathology/therapy services, psychological counseling, nursing, and transportation services.

New Hampshire Medicaid to Schools Program

In New Hampshire, the Department of Health and Human Services, Office of Medicaid Business and Policy (State agency), administers the Medicaid program. New Hampshire's Medicaid to Schools Program allows school administrative units (SAU)¹ to receive Federal reimbursement through the State agency for medically related services provided pursuant to a child's IEP.

¹ An SAU is a legally organized administrative body responsible for one or more school districts.

The State agency reimbursed SAUs for only the Federal share of Medicaid expenditures; the SAUs were responsible for the State share.² In addition, SAUs were reimbursed for the lesser of the actual cost or the rate established by the State agency for covered services. The Federal Government pays its share of State Medicaid expenditures, including claims for school-based health services, according to a formula established in section 1905(b) of the Act. That share is known as the Federal medical assistance percentage (FMAP). The FMAP in New Hampshire ranged from 50 percent to approximately 62 percent during our audit period.

State Guidance for Billing Medicaid School-Based Services

The primary State guidance for administering and operating the school-based health program is the *New Hampshire Medicaid to Schools Program Manual* (State Manual). According to the State Manual, to be eligible for this program, a student must be (1) identified as having an educational disability in his or her IEP, (2) younger than 22 years of age, (3) eligible for Medicaid, and (4) served by an SAU that is enrolled as a Medicaid provider. Covered services under the Medicaid to Schools program include:

- medical evaluation;
- nursing services;
- occupational and physical therapy;
- psychiatric, psychological, and mental health services;
- speech, language, and hearing services;
- rehabilitative assistance;
- vision services; and
- transportation services.

OBJECTIVE, SCOPE, AND METHODOLOGY

Objective

Our objective was to determine whether the State agency claimed Federal Medicaid reimbursement for school-based transportation services in accordance with Federal and State requirements.

² The State's share of the Medicaid payments consisted of certified public expenditures. These expenditures represented funds that cities and towns had provided for school-based services.

Scope

We reviewed Medicaid school-based transportation services that were submitted by New Hampshire SAUs and claimed by the State agency for Federal reimbursement on Form CMS-64, Quarterly Medicaid Statement of Expenditures for the Medical Assistance Program. The State agency claimed \$28,611,539 (\$15,214,592 Federal share)³ for Medicaid payments for transportation services made to the SAUs during calendar years 2006 through 2009. We limited our review to 227,553 claim line items (items) for transportation services, totaling \$15,766,315 (\$8,375,998 Federal share), that we identified as having a high risk for overpayment. Specifically, we limited our review by performing a data match to identify and eliminate transportation services that had another Medicaid-covered medical service on the same day.

Our objective did not require an understanding or assessment of the complete internal control structures at the State agency or the SAUs. Rather, we limited our review to those controls that were significant to the objective of our audit.

We performed our fieldwork at the State agency in Concord, New Hampshire, and at selected SAUs from June 2011 through March 2012.

Methodology

To accomplish our audit objective, we:

- reviewed applicable Federal and State laws, regulations, and guidance and the CMS-approved State plan;
- interviewed officials from CMS, the State agency, and the SAUs;
- obtained a computer-generated file from the Medicaid Management Information System containing all Medicaid school-based health claims submitted by the State agency with claim paid dates from January 2006 through December 2009;
- evaluated the file to identify 636,838 items for Medicaid school-based transportation services totaling \$28,611,539 (\$15,214,592 Federal share);
- identified a sampling frame of 227,553 items for Medicaid school-based transportation services having a high risk for overpayment totaling \$15,766,315 (\$8,375,998 Federal share), as described in Appendix A;
- selected a stratified random sample of 115 of the 227,553 items (Appendix A);

³ We previously audited Medicaid payments for transportation services made to the Manchester SAU during calendar years 2006 through 2008 under report number A-01-10-00014.

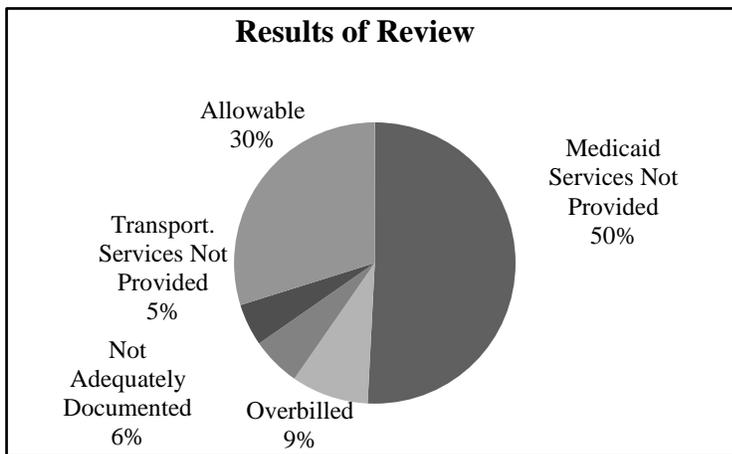
- analyzed service logs, IEPs, and other documentation for each of the 115 items to determine whether each was allowable and accurate in accordance with Federal and State requirements; and
- estimated the total overpayments and the Federal share of these overpayments based on our sample results (Appendix B).

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

FINDINGS AND RECOMMENDATIONS

The State agency did not always claim Federal Medicaid reimbursement for school-based transportation services submitted by SAUs in accordance with Federal and State requirements. Of the 115 items in our random sample, 37 items met Federal and State requirements. However, the remaining 78 items had 1 or more school-based transportation services, totaling \$272,327 (\$136,397 Federal share), that were not reimbursable.

Specifically, we found items with the following deficiencies:⁴



- For 63 items, the State agency claimed Federal reimbursement for transportation services for which the documentation did not support that the students had received another medical service on the same day.
- For 11 items, the State agency claimed Federal reimbursement for transportation services provided by SAUs that were overbilled.

- For seven items, the State agency claimed Federal reimbursement for transportation services that did not meet Federal documentation requirements.
- For six items, the State agency claimed Federal reimbursement for school-based transportation services that were not provided.

⁴ The total exceeds 78 because 8 of the 78 items contained more than 1 deficiency.

Based on our results, we estimated that the State agency improperly claimed \$5,086,636 (\$2,695,809 Federal share)⁵ for Medicaid payments made to SAUs.

RELATED MEDICAL SERVICES NOT PROVIDED

Pursuant to Federal regulations (42 CFR § 440.170) and the New Hampshire State plan, Attachment 3.1-A, page 9-a, Medicaid reimbursement is available for the transportation of beneficiaries to and from necessary medical care. Pursuant to CMS’s technical guide, Medicaid will reimburse states for transportation to school-based services for children under IDEA when (1) the child receives transportation to obtain a Medicaid-covered service (other than transportation) and (2) both the Medicaid-covered service and the need for transportation are included in the child’s IEP. Moreover, a CMS letter to State Medicaid Directors, dated May 21, 1999 (CMS letter), states that “transportation to and from school may be claimed as a Medicaid service when the child receives a medical service in school on a particular day and when transportation is specifically listed in the IEP as a required service.” The CMS letter also states that the cost of transporting a child to school on a regular school bus shared with nondisabled children should not be billed to Medicaid.

For 63 of the 115 items in our sample, the State agency claimed Federal reimbursement for transportation services, but the documentation did not support that the students had received another medical service on the same day. For example, an SAU requested reimbursement from the State agency for a full week of bus rides provided to a student, but the SAU indicated that it could not provide service logs to support that the student received a covered Medicaid service at school on any of those days.

SCHOOL-BASED TRANSPORTATION SERVICES OVERBILLED

Section 1903 of the Act limits Federal reimbursement of medical assistance costs to expenditures made by the States. Pursuant to the CMS *State Medicaid Manual* (chapter 2, section 2497.1), Federal reimbursement “is available only for allowable actual expenditures made”

For 11 of the 115 items in our sample, the State agency claimed Federal reimbursement for school-based transportation services that were overbilled by the SAUs. Specifically, the SAUs calculated costs based on incorrect mileage or billed costs that exceeded the amount detailed in the supporting documentation. For example, an SAU requested reimbursement of \$137 per day from the State agency, but the invoice from the bus provider indicated that the actual cost of the transportation services provided to the student was \$75 per day. Because the transportation service was otherwise allowable, we calculated a partial disallowance based on the difference between the cost of the service and the claimed amount.

SCHOOL-BASED TRANSPORTATION SERVICES NOT ADEQUATELY DOCUMENTED

Pursuant to 2 CFR part 225, App. A, § C.1 (formerly Office of Management and Budget Circular A-87, Attach. A, § C.1), costs must be documented adequately to be allowable under Federal

⁵ This estimated amount is based on the full disallowance of 59 items and the partial disallowance of 19 items.

awards. States are required, under 42 CFR § 431.17(b)(2), to maintain fiscal records necessary for reporting and accountability of their Medicaid program. Furthermore, the CMS letter states that documentation for each transportation service must be maintained.

For 7 of the 115 items in our sample, the State agency claimed Federal reimbursement for school-based transportation services that did not meet Federal documentation requirements. For these claims, some documentation existed, such as IEPs and progress notes, but the available documentation did not support the cost of transportation services that were furnished to the students. For example, an SAU provided an IEP to demonstrate that a student was scheduled to receive speech services twice a week. However, the SAU did not provide invoices or trip logs from the bus provider that confirmed the cost of the claimed transportation services. Therefore, the transportation services were not Medicaid reimbursable.

SCHOOL-BASED TRANSPORTATION SERVICES NOT PROVIDED

Section 1902(a)(27) of the Act requires that States claiming Federal Medicaid funding must document services provided. Pursuant to 42 CFR § 455.1(a)(2), States are required to have a method for verifying whether services reimbursed by Medicaid were furnished.

For 6 of the 115 items in our sample, the State agency claimed Federal reimbursement for school-based transportation services and had no documentation to support that services were actually provided. Claims for transportation services were submitted for days when the students were absent from school, or school was not in session and the students would not have received transportation to school. For example, the SAU requested reimbursement from the State agency for bus rides provided to a student on a particular day, but the attendance record showed that the student did not attend school on that day.

ESTIMATE OF THE UNALLOWABLE AMOUNT

Of the 115 items in our random sample, 78 items had 1 or more transportation services, totaling \$272,327 (\$136,397 Federal share), that were not reimbursable. Based on our sample results, we estimated that the State agency improperly claimed \$5,086,636 (\$2,695,809 Federal share) for Medicaid payments made to SAUs during our January 1, 2006, through December 31, 2009, audit period (see Appendix B).

INCORRECT GUIDANCE AND INADEQUATE OVERSIGHT

The deficiencies occurred because the State agency issued guidance to the SAUs based on its misunderstanding of Federal requirements. Specifically, State agency officials informed us that they believed the CMS letter clarified that transportation in a specialized vehicle to and from school is a stand-alone covered service and that another medical service is not required on the same day. As a result of this misunderstanding, the State agency issued policy memorandums to SAUs dated June 24, 1999, and August 15, 2000, stating that all specialized transportation is reimbursable by Medicaid, regardless of whether a student received another Medicaid-covered service on the same day.

In addition, the State agency did not adequately monitor the claims for Medicaid school-based transportation services submitted by SAUs. Although the State agency used an internal auditor to review claims submitted by the SAUs, these reviews were insufficient to detect and prevent unallowable claims for school-based transportation services from being paid.

RECOMMENDATIONS

We recommend that the State agency:

- refund \$2,695,809 to the Federal Government,
- work with CMS to review Medicaid payments made to SAUs after our audit period and refund any overpayments,
- strengthen its oversight of the New Hampshire Medicaid to Schools program to ensure that claims for school-based transportation services comply with Federal and State requirements, and
- issue new guidance on school-based transportation that is consistent with Federal requirements.

STATE AGENCY COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE

In written comments on our draft report, the State agency concurred in part and disagreed in part with our findings and recommendations. Specifically, the State agency agreed in general with our recommendations to strengthen its oversight of the New Hampshire Medicaid to Schools program and to issue new guidance on school-based transportation that is consistent with Federal requirements. However, the State agency disagreed with our sampling methodology for 1 item and disagreed with our findings for 10 of the 78 items that we identified as having 1 or more transportation services that were not reimbursable. Although the State agency did not specifically comment on the remaining 67 items, it stated that it continues to locate and review relevant documentation of services and that it reserves the right to provide additional documentation in the future.

The State agency stated that it is in the process of changing its administrative rules and amending its advice to the SAUs to reflect the requirement that a Medicaid service is required on a particular day to bill Medicaid for transportation services. In regard to decreasing billing errors, the State agency stated that certain SAUs are developing an improved billing system and that it will continue an ongoing audit review and education process. We commend the State agency for the steps it is taking to strengthen its oversight of the New Hampshire Medicaid to Schools program.

In response to the State agency comments, we modified our findings for nine items and adjusted our monetary recommendation as appropriate. However, we maintain that the State agency did not always claim Federal Medicaid reimbursement for school-based transportation services

submitted by the SAUs in accordance with Federal and State requirements, as reflected in our modified recommendations.

The State agency's comments are included as Appendix C. We redacted personally identifiable information from the State agency's comments. In addition, we excluded 10 attachments totaling 389 pages that also contained personally identifiable information.

The following is a summary of the State agency's comments on the specific findings described in our draft report and our response to those comments.

General Audit Concerns

State Agency Comments

The State agency noted that we had previously identified the issue pertaining to transportation services billed on days when another Medicaid-covered service was not provided in our review of Medicaid payments for school-based services made to Manchester, New Hampshire (report number A-01-10-00014). The State agency stated that our current review does not further the Office of Inspector General's (OIG) mission to identify errors and to create greater efficiencies and economies in the Medicaid program.

The State agency also expressed concern with the audit design, "which consisted of a combination of a 100% review of two school districts (stratum 1) and a representative sample of the rest of the State (strata 2 & 3)." The State agency stated that significant challenges exist "both in responding to the audit and in the equitable determination of responsibility for repayment, if any, as between the State and the several school districts, particularly for strata two and three claims." Specifically:

- The State agency noted that responding to the audit findings was a challenge because locating student records was a time-consuming and intensive process. Despite focusing its efforts on the review of strata 2 and 3, the State agency stated that it did not have sufficient time and resources to complete a detailed review. The State agency, therefore, is retrieving additional documentation to support sample items in strata 2 and 3 and would like the opportunity to conduct a separate review of stratum 1.
- The State agency stated that it will be difficult to equitably determine each SAU's responsibility for any repayments based on the extrapolation, because it will have to seek repayment from SAUs not sampled in the audit. Furthermore, the State agency stated that the errors pertaining to related medical services not provided were attributable to incorrect guidance issued by the State agency, but the billing errors were attributable to calculation errors by the individual SAUs.

Office of Inspector General Response

We disagree that our review did not further OIG's mission. Specifically, our review of school-based transportation services in Manchester, New Hampshire, indicated the need to examine

similar services statewide. The statewide review provides evidence that errors have occurred across multiple SAUs and, therefore, remedies must be directed statewide, not at one or two SAUs. Determining the scope of errors through these two audits furthers our mission to promote efficiency.

Regarding the State agency's efforts to retrieve additional documentation and to review stratum 1 separately, we understand that the collection and analysis of documentation for this type of review can be a time-consuming process, and we acknowledge the State agency's right to provide additional documentation to CMS after we have issued our final report.

The Medicaid payments for school-based transportation services that we reviewed were claimed for Federal reimbursement by the State agency. Therefore, we audited the State agency's claims for Medicaid reimbursement and not the payments that the State agency made to the SAUs. Our methodology does not obligate the State agency to apportion liability to any or all SAUs or to seek repayment from them. These decisions are the State agency's.

Sampling Concerns

State Agency Comments

The State agency stated that one randomly selected item should be eliminated from stratum 3 and moved to stratum 1. Stratum 1 consisted of a 100-percent review of all 15 line items with a paid amount of \$15,000 or more, and stratum 3 was an extrapolation of all items billed for multiple dates of service. The State agency noted that an overwhelming portion of the claimed amounts in stratum 1 were unallowable because of billing errors and that 12 of 14 items with billing errors were submitted by 1 SAU. The item from stratum 3 was submitted by this same SAU and also contained a billing error.

The State agency stated that these billing errors represented outliers attributable to systemic issues at the SAU. Therefore, the State agency stated that a 100-percent review of all claims that the SAU submitted would be appropriate. The State agency concluded that including such a high-dollar billing error in stratum 3, unrelated to whether another Medicaid-covered service was provided, has an "inequitable and disproportionate impact on repayment due to the extrapolation."

Office of Inspector General Response

We disagree with the State agency's assertion that we should have eliminated one item from stratum 3 and moved it to stratum 1. We relied on a statistically valid stratified sample to conduct our review; the purpose of stratification is to group like items to reduce variability and result in a more accurate estimate. If we moved the item in question from stratum 3 to stratum 1, the statistical sample would not be valid. In addition, it would be inappropriate to move the item because it did not meet the selection criteria for stratum 1.

We also disagree that this item was an outlier, because we noted that the sample frame for stratum 3 contained 220 items submitted by this SAU, 1 of which was randomly selected.

Furthermore, a 100-percent review would not be feasible because of the large number of items submitted by the SAU in question. Additionally, two other items submitted by different SAUs in stratum 3 also had billing errors, which demonstrates that the error was not an outlier by one SAU. Furthermore, the methodology that we used to select and evaluate the results of our sample provided an unbiased extrapolation (estimate) of the Medicaid payments for school-based transportation services made by New Hampshire. As stated in New York State Department of Social Services, DAB No. 1358 (1992), "... sampling (and extrapolation from a sample) done in accordance with scientifically accepted rules and conventions has a high degree of probability of being close to the finding which would have resulted from individual consideration of numerous cost items and, indeed, may be even more accurate, since clerical and other errors can reduce the accuracy of a 100% review."

Concerns With Individual Findings

State Agency Comments

With respect to 10 claims, the State agency disagreed with our draft report findings that its claims for Federal reimbursement did not meet Federal and State requirements. With its comments on our draft report, the State agency submitted documentation that it had not provided during our fieldwork to support that the students had received Medicaid-covered services on the transportation date. Specifically:

- For four items, the State agency maintained that the students received Medicaid-covered rehabilitative assistance services on the days that transportation services were provided. The State agency submitted IEPs for each student that described the medical conditions that required the assistance of a rehabilitative aide. The State agency also provided affidavits from the rehabilitative aide and other school staff declaring that the aide assisted the student on a daily basis.
- For four items, the State agency stated that the students received Medicaid-covered nursing, rehabilitative assistance, speech therapy, or mental health services on the days that transportation services were provided. The State agency provided IEPs, referrals, and transaction logs to support that the students received Medicaid-covered services on the dates of transportation.
- For one item, the State agency stated that the student received Medicaid-covered medication administration services on the day that transportation services were provided. The State agency submitted the student's IEP and a drug administration log indicating that school staff administered medication to the student on the date in question. The State agency explained that New Hampshire Administrative Rule He-C 4001.15 allows properly trained staff to administer drugs to children in residential treatment programs. The staff person received the required 4 hours of training from a registered nurse.
- For one item, the State agency asserted that the student received multiple Medicaid-covered medical services on the days that transportation services were provided. The State agency submitted the student's IEP and explained that the student required

occupational therapy, physical therapy, speech therapy, and nursing services on a regular basis. The State agency also provided a transaction log to support that the student received physical therapy services on one of the dates of transportation. In addition, the State agency stated that the student had significant medical needs that required constant attention. The State agency provided the student's Health Care Plan and an affidavit from a licensed practical nurse declaring that she had to monitor the student's medical conditions in the classroom on a daily basis and provide direct care as needed.

Office of Inspector General Response

We agree in part that the reimbursements claimed for 9 of the 10 items met Federal and State requirements, but we disagree that the remaining item met the requirements.⁶ Specifically:

- We agree that IEPs and affidavits submitted by the State agency for four items support that the students received Medicaid-covered rehabilitative assistance services on the days that transportation services were provided. The State agency documented that the students had intensive medical needs and required assistance with mobility, personal care, or behavioral management on each day that they attended school. Given the unique circumstances, we accepted the affidavits as adequate documentation that the medical services were furnished. We modified our report and adjusted our results to reflect these changes.
- We agree that the IEPs, referrals, and transaction logs submitted by the State agency for four items support that the students received Medicaid-covered nursing, rehabilitative assistance, speech therapy, or mental health services on the days that transportation services were provided. We modified our report and adjusted our results to reflect these changes.
- We disagree that the documentation submitted by the State agency supports that one student received another Medicaid-covered service on the date of transportation. The staff member who administered medication to the student was not a licensed practitioner of the healing arts; therefore, the administration of the medication was not a Medicaid-covered service. New Hampshire Administrative Rule He-M 1301.04 does indicate that the administration of medications is a covered service, but only if it is performed by a licensed registered nurse, a licensed practical nurse, or an advanced registered nurse practitioner.
- We agree that the IEP, transaction logs, and affidavits submitted by the State agency for one item support that the students received Medicaid-covered physical therapy and nursing services on the days that transportation services were provided. On one of the dates of transportation, a transaction log supported that the student received physical therapy services. On the remaining dates, the student's Health Care Plan and an affidavit from a school nurse indicated that the student's medical conditions required monitoring

⁶ Two of the nine items had additional billing errors. Therefore, we adjusted the full amount of the disallowance for seven of the nine items but only a portion of the disallowance for the two items with additional billing errors.

from the nurse on each school day. Given the unique circumstances, we accepted the affidavit as adequate documentation that the medical services were furnished.

APPENDIXES

APPENDIX A: SAMPLE DESIGN AND METHODOLOGY

POPULATION

The population consisted of Medicaid paid claims for school-based transportation services that were claimed by the New Hampshire Department of Health and Human Services, Office of Medicaid Business and Policy (State agency), for Federal reimbursement. The population was limited to those claims that were paid during calendar years (CY) 2006 through 2009.

SAMPLING FRAME

The sampling frame consisted of 227,553 claim line items for school-based transportation services paid to New Hampshire School Administrative Units (SAU) during CYs 2006 through 2009 for which the State agency claimed a total of \$15,766,315 (\$8,375,998 Federal share).

We excluded 47,594 line items for transportation services provided by the Manchester SAU and paid by the State agency in CYs 2006 through 2008 because these services were part of our prior review of Medicaid payments for school-based health services made to Manchester, New Hampshire (A-01-10-00014). In addition, we excluded 14,667 line items that had a monthly net paid amount of less than \$5.

For line items that were billed for single dates of service, we performed a data match to identify and eliminate transportation services that had another Medicaid-covered medical service on the same day. These line items are eligible for Federal reimbursement. Accordingly, we excluded 394,648 line items for these services. For line items that were billed for multiple dates of service, we could not perform a data match because we could not identify the specific dates on which transportation was provided. Therefore, we did not exclude any line items billed for multiple dates of services from the sampling frame.

SAMPLE UNIT

The sample unit was a claim line item for transportation services.

SAMPLE DESIGN

We used a stratified random sample. We stratified the sampling frame into three strata: (1) line items with a paid amount of \$15,000 or more, (2) line items billed for single dates of service with no matching Medicaid-covered medical service on the same day, and (3) all line items billed for multiple dates of service.

Stratum	Description	Number of Line Items	Dollar Value of Line Items	Federal Share of Line Items
1 (100% Review)	Line items with a paid amount of \$15,000 or more	15	\$290,504.62	\$146,448.36
2	Line items billed for single dates of service with no service match	207,009	\$10,462,585.90	\$5,582,046.27
3	All line items billed for multiple dates of service	20,529	\$5,013,224.96	\$2,647,503.43
Total		227,553	\$15,766,315.48	\$8,375,998.06

SAMPLE SIZE

We selected all 15 line items from stratum 1. We selected 60 line items from stratum 2 and 40 line items from stratum 3, resulting in a total sample of 115 line items.

SOURCE OF THE RANDOM NUMBERS

We used the Office of Inspector General, Office of Audit Services (OAS), statistical software to generate 60 random numbers for stratum 2 and 40 random numbers for stratum 3.

METHOD OF SELECTING SAMPLE ITEMS

We selected all 15 sample items for stratum 1. We consecutively numbered the sample items in stratum 2 and stratum 3. After generating 60 random numbers for stratum 1 and 40 random numbers for stratum 3, we selected the corresponding frame items.

ESTIMATION METHODOLOGY

We used the OAS statistical software to estimate the total amount and the Federal share of the amount that the State agency improperly claimed for Medicaid payments for school-based transportation services made to SAUs.

APPENDIX B: SAMPLE RESULTS AND ESTIMATES

Sample Results: Total Amounts

Stratum	Frame Size	Value of Frame	Sample Size	Value of Sample	No. of Line Items With Unallowable Services	Value of Unallowable Services in Sample
1	15	\$290,504	15	\$290,505	14	\$266,841
2	207,009	10,462,586	60	2,539	42	1,458
3	20,529	5,013,225	40	9,856	22	4,028
Total	227,553	\$15,766,315	115	\$302,900	78	\$272,327

Sample Results: Federal Share Amounts

Stratum	Frame Size	Value of Frame (Federal Share)	Sample Size	Value of Sample (Federal Share)	No. of Line Items With Unallowable Services	Value of Unallowable Services in Sample (Federal Share)
1	15	\$146,448	15	\$146,448	14	\$133,420
2	207,009	5,582,046	60	1,347	42	770
3	20,529	2,647,503	40	5,338	22	2,207
Total	227,553	\$8,375,998	115	\$153,133	78	\$136,397

Estimated Value of Improperly Claimed Federal Medicaid Reimbursement
(Limits Calculated for a 90-Percent Confidence Interval)

	<u>Total Amounts</u>	<u>Federal Share</u>
Point estimate	\$7,364,913	\$3,923,465
Lower limit	5,086,636	2,695,809
Upper limit	9,643,190	5,151,120



State of New Hampshire

DEPARTMENT OF HEALTH AND HUMAN SERVICES

129 PLEASANT STREET, CONCORD, NH 03301-3857

~~603-271-4000~~ FAX: 603-271-4912 TDD ACCESS: 1-800-735-2964

New Number: 603-271-9200

NICHOLAS A. TOUMPAS
COMMISSIONER

July 2, 2012

Mr. Michael J. Armstrong
Regional Inspector General for Audit Services
Department of Health and Human Services
Office of Inspector General
Office of Audit Services, Region 1
John F. Kennedy Federal Building
Boston, MA 02203

Re: Report Number A-01-11-00008

Dear Mr. Armstrong:

I am writing in response to the Office of Inspector General (OIG) draft report reviewing statewide Medicaid payments for school-based transportation services for the four calendar years, 2006 through 2009. Thank you for the opportunity to respond to the draft report. I have attached documentation relative to certain individual cases in response to several OIG preliminary findings. As discussed more fully below, we are finding that New Hampshire often properly claimed Medicaid payments for school-based transportation services. Our efforts continue and New Hampshire reserves the right to continue to respond to OIG and to supplement the record.

Brief Response

The New Hampshire Department of Health and Human Services (DHHS) respectfully concurs in part and disagrees in part with OIG's draft findings.

OIG's statewide audit of New Hampshire's Medicaid to Schools (MTS) program follows an OIG audit of the Manchester school district, completed earlier this year. New Hampshire filed its response to the Manchester audit report (Report Number A-01-10-00014) with CMS on March 13, 2012. As you are aware, the Manchester audit report brought to New Hampshire's attention and raised for the first time the condition that a Medicaid service is required on a particular day in order to properly bill Medicaid for transportation services. NH DHHS is already in the process of changing our administrative rules and amending our advice to the school districts to reflect that position.

OIG used three strata in its review of MTS transportation. Strata one involved a review of large dollar claims from Jaffrey Rindge Coop District and another district. The issues in this stratum raised unique billing concerns. OIG did a 100% review of these claims and did not extrapolate them to the state wide MTS billings. OIG reviewed two other strata, did a review of a sample and extrapolated its questioned costs against the state strata. Due to the intensity of resources necessary to review OIG's draft findings and the limited time frame to conduct a State review, it was necessary for the State to focus its review efforts on strata two and three. The State respectfully requests an opportunity to review Strata one claims with the two districts involved in the claims for that stratum, as it has not yet had time to even begin a review of the unique issues presented by those claims.

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NH DHHS reviewed claims from strata two and three to the extent that it was able to do so. During its review, NH DHHS found many instances in which another Medicaid covered service was provided on the date of transportation, and has provided evidence of this in its response. Nevertheless, due to the intensity of time and resources needed to review OIG's draft findings, NH DHHS was not able to complete as thorough a review as is necessary to respond adequately. Consequently, as of the date of this response, NH DHHS continues to locate, receive, and review relevant documentation of services questioned by OIG. Accordingly, NH DHHS respectfully reserves the right to supplement its response with additional supportive documentation.

In one instance, OIG's sampling approach has lead to an unfair and incorrect result. OIG included this claim in its strata three review because it was for an amount less than \$15,000. This claim is for a very large amount, \$1,252.53, and when extrapolated against the entire State, may have a dramatically disproportionate impact of up to one third of the recommended repayment. As discussed more completely below, the State respectfully requests that this Jaffrey claim should be treated like the other Jaffrey claims in strata one with a recommended straight repayment and not as an extrapolated repayment against the entire State.

Detailed Response

OIG recently completed an audit of Medicaid payments for school-based services in New Hampshire's largest school district, Manchester, for the calendar years 2006 through 2008. During the audit, OIG identified an error - that New Hampshire did not always ensure that another Medicaid covered service was provided on a day when transportation was billed to Medicaid. New Hampshire responded to OIG's finding in its Manchester MTS audit, acknowledging that during the period audited, it had interpreted CMS guidance in the SMDL dated May 1999 to authorize billing for specialized transportation in this manner. OIG's audit of Manchester MTS had raised this issue to the State for the first time. In its response to the Manchester audit, NH DHHS stated it would review and revise its guidance on this issue and, going forward, would require another Medicaid covered service be provided on a date for which specialized transportation is billed to Medicaid. See OIG Report #A-01-107-00014 issued January 19, 2012.

OIG commended the State on its taking corrective action to revise its guidance, increasing its training efforts and implementing a new MTS billing system. See OIG Manchester MTS Report #A-01-107-00014 at 13, and then proceeded to conduct an expanded statewide audit focused solely on the area which the State had already commenced review and improvements after receiving OIG's Manchester MTS report. The current expanded audit has resulted in OIG draft report review of MTS payments for transportation for calendar years 2006 through 2009, OIG Report #A-01-11-00008. In its draft report on the statewide audit of transportation for school-based Medicaid service, OIG has now recommended an additional refund of \$3,585,179 to the federal government, and that the State strengthen its oversight of the New Hampshire Medicaid to Schools program for school-based transportation services. OIG Draft Report #A-01-11-00008 at page 7.

NH DHHS remains committed to making necessary improvements to its MTS program but these changes can only impact the program going forward. If the goal of OIG was to identify compliance issues in New Hampshire's MTS program and to allow New Hampshire to correct the compliance issues, the Manchester audit accomplished that goal. OIG's conducted an expanded state wide review several months after OIG completed a review of essentially the same time period as was covered in the Manchester audit on a topic that has already been critiqued in the Manchester report. This does not further

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OIG's mission to identify error and create greater efficiencies and economies in the Medicaid program. The impact of the OIG's returning to the same issue and the same audit period (plus one year) but in an expanded state wide review is to punish financially the State, to seek the recovery of limited program dollars from the Medicaid to School program and the disabled students it serves, and to discourage the State from openly reviewing areas of concern with federal oversight authorities and acknowledging that improvements are warranted.

OIG's audit design resulted in the review of approximately 115 claims, which essentially involved two separate audit approaches with different impacts on the State. Responding to the construct of this audit, which consisted of a combination of a 100% review of two school districts (stratum 1) and a representative sample of the rest of the State (stratums 2 & 3), presents several challenges to New Hampshire. Significant challenges exist both in responding to the audit and in the equitable determination of responsibility for repayment, if any, as between the State and the several school districts, particularly for strata two and three claims.

For example, some errors may be attributable to the State as districts followed incorrect State guidance. Responsibility for other billing errors properly lies with the districts. OIG did not visit all SAU's but extrapolated the error rate to the entire State, whether based on incorrect State guidance or SAU billing error. The methodology may place the State in the position of seeking repayment from an SAU that was not sampled in the audit.¹

Due to the intensity of resources necessary to review OIG's draft findings, the State had to pick which of the two audit areas to focus its review efforts. Given the potentially crippling affect of a multi million dollar repayment arising from the extrapolation on the Medicaid program serving disabled students, NH DHHS elected to use its limited resources in reviewing strata two and three claims. The State respectfully requests an opportunity to conduct a separate review of strata one claims, as it has not yet had time to begin a review of the unique issues presented by those claims.

Although the State focused its efforts on a review of strata two and three, nevertheless, there was not sufficient time to complete a detailed review even of these strata. This is due to the highly rigorous efforts needed to locate student records, review content, identify likely other Medicaid covered services and to do the necessary follow up work of demonstrating services provided and the credentials of those who provided the services.

The OIG statewide MTS audit encompassed four years and involved the detailed review of student information from 34 school administrative units or districts (SAU's), including 115 claims and 107 individual students, from across the State. Several of the students were in out of district placements, some of which are located outside New Hampshire.

¹ For stratum one, which involved 14 claims, each over \$15,000, billed by two districts (12 claims from the Jaffrey Rindge Coop School District and 2 claims from the now dismantled school district of Wilton/Massenic), OIG did a 100% review of the claims. For questioned claims in this stratum, OIG did not extrapolate the results to the State. Claims in stratum one appear to raise unique and distinct claims issues, which are properly addressed separately. Strata two included transportation billed for single dates of service selected for review by OIG as there was no other matching Medicaid covered services billed for the student on the same day. Stratum 3 included cases in which transportation was billed for multiple dates of service. For strata two and three, OIG extrapolated any questioned claims amounts against the sample frame for the four-year period for the entire state.

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In many cases, the substantive information provided by the districts to OIG for its consideration consisted only of a form letter that simply stated, "it does not appear that [child] received a covered service in addition to transportation on [date]." DHHS has concerns that in many instances a cursory search and a form letter ended the inquiry and resulted in an erroneous preliminary finding.

In numerous instances, the students' IEP's were not provided to OIG by the districts during its review. NH DHHS could not simply accept at face value a statement by SAU's that it does not appear that a child received another Medicaid covered service. Rather, NH DHHS was required to exercise due diligence in making reasonable efforts to determine whether or not transportation was properly claimed and other Medicaid covered services were provided on particular dates.

Gathering information in these circumstances has proven to be a slow process. Some districts did not appear sufficiently motivated to respond to OIG or NH DHHS's requests for information and documentation, for various reasons, including that they did not appear to appreciate the very significant financial impact of extrapolating a small claim amount against all state transportation claims for a four-year period. Additionally, school vacations and the demands of end of school year IEP activity impacted the availability of staff to respond to State inquiries. Our experience has been that some individual school districts may not appreciate the significance of a single claim for transportation at a seemingly small dollar amount. Some districts may not be sufficiently motivated to respond to our requests for information and documentation, and may have not been sufficiently motivated to respond to OIG during the audit, because they may have attributed the error to incorrect State guidance. It would appear that, as a whole, the SAU's did not appreciate the potentially crippling impact of the threatened loss that \$3.5 million would have to their ability to serve New Hampshire's disabled students.

Further, in some instances, records for claims as much as seven years old were impacted by loss due to the passage of time, movement of records, damage and various other circumstances. NH DHHS was required to look for alternative sources of documentation at various locations to substantiate services provided.

In other cases, the responsible SAU's indicated that they could not locate any records indicating that a Medicaid service had been provided. Follow up work by DHHS staff revealed that the child had moved to another district since the audit period and the records had moved to another SAU or in some instances to other states. For example, see claim #38.

NH DHHS made numerous requests to districts, engaged in telephone discussions and performed field visits. The effort yielded evidence of other Medicaid covered services in numerous instances. See section below encaptioned "Other Medicaid Services Provided."

Some cases selected for audit involved severely medically compromised children in out of district placements. These children are enrolled in intensive programs that by their very nature included allowable or billable Medicaid services each and every day they attend these programs. Rather than bill for individual medical services, the out of district facilities bill an all-inclusive daily rate that includes a built-in medical component for Medicaid covered rehabilitative, counseling and other services supplied by those specialized placements. The students' services were required by the IEP and were provided by the out of district placements. Yet, the school districts did not have the documentation indicating that a Medicaid covered service had been provided. Therefore, NH DHHS had to work with the out of district facility in order to document that a qualifying Medicaid service had, in fact, been delivered. The discovery of such documentation was the result of a time consuming and intensive effort by DHHS staff and included trips to Vermont and to Massachusetts.

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Additionally, in its review, NH DHHS found a number of instances in which a billing error occurred that was not related to whether there was another Medicaid covered service, such as instances in which there was no school or a calculation error. These errors are not related to State guidance. NH DHHS has a MTS audit and review process that it continues to follow that identifies individual district errors. NH DHHS follows audits with education and recovery as appropriate.

Single Audit Claim From Jaffrey That Has Been Incorrectly Included In Strata Three

OIG's sample design consisted of three stratum. Stratum 1 included line items with a paid amount of \$15,000 or more. Stratum 2 included line items billed for single dates of service with no matching Medicaid covered services on the same day. Stratum 3 included cases in which all line items billed for multiple dates of service.

Of the 14 cases that make up stratum 1, 12 are from Jaffrey and 2 are from Wilton². The stratum 1 review was a 100% review that was not extrapolated. OIG's 100% review of Jaffrey makes sense for a couple of reasons. First, Jaffrey billed the Medicaid to Schools program on a quarterly basis, which necessarily results in larger line items. Second, the overwhelming portion of unallowable billing in stratum 1 is the result of billing error and not the absence of a Medicaid covered service. Of the \$266,840.66 total unallowable as determined by OIG, only \$2,842 was deemed to be the result of no Medicaid covered service for the audit period. The errors identified by OIG in stratum 1 are outliers when compared to the rest of the State. In fact, in the spreadsheet provided by OIG they state, "For all dates of services, SAU could did [sic] not provide any documentation to support the cost of the claimed services. Based on review of other claims from the SAU, we determined risk of overpayment due to billing error to be high."

OIG observed in its review notes for the Jaffrey school district that billing errors occurred on all service dates, often with billing for days the student was not present at school. Other errors include overcharging for bus trips due to improper calculation based on the number of Medicaid students on the bus or billing twice for a one-way trip. It is apparent that Jaffrey had significant and systemic billing issues that had little or nothing to do with whether a Medicaid service was provided on a day that Medicaid was billed for transportation services. Accordingly, we agree that a 100% review of Jaffrey's Medicaid to Schools billing is an appropriate methodology.

However, OIG's sample included one Jaffrey student who appears in stratum 1 and is also included in stratum 3. The student, [REDACTED], appears as student #4 in stratum 1 and as student #92 in stratum 3. The total amount unallowable for the stratum 3 cases is \$1,252.53, which is 100% attributable to Jaffrey's billing error. OIG's description of the billing error is as follows, "Billing error on all 30 dates of service." SAU only allocated \$188 daily bus cost to 3 Medicaid students on bus instead of 9 total students. Daily error was \$62.64 claimed amount minus \$20.89 allowable amount (\$188/9 students)."

² No documentation was provided for Wilton to support the Medicaid claims. Documentation may have been lost when Wilton and Mascenic split into two SAU's.

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Including such a high dollar billing error, that has nothing to do with whether there was another Medicaid service provided, has an inequitable and disproportionate impact on repayment due to the extrapolation. Student #92 should be eliminated from the sample or made part of stratum 1.

Other Medicaid Services Provided

Claim #20 R.G

OIG has made a preliminary finding that transportation for R.G. for claim #20 was not allowable as it did not have evidence that another Medicaid covered service was performed on September 26, 2008.

The NH DHHS responds that R.G. did receive another Medicaid allowed service on September 26, 2008, and thus transportation is properly allowable. In particular, R.G. received the services of 1:1 paraprofessional or rehabilitative assistant on September 26, 2008.

As reflected in his IEP dated May 20, 2008, R.G. had significant academic, developmental, functional and behavioral problems stemming from his ADD, depression, anxiety and low cognitive abilities. IEP at page 2. He received consultation services, OT, psychological services, and worked with 1:1 paraprofessional [REDACTED] each day due to his low academic abilities, lack of focus, and behavioral problems as specified in his IEP. IEP at pages 2, 13, 14. See Affidavits of [REDACTED] and [REDACTED]

Under He-M 1301.04(v)-(y) receiving the services of a 1:1 paraprofessional or rehabilitative assistant is a Medicaid covered service. However, Medicaid was not billed for the rehabilitative services R.G. received from [REDACTED] because Ms. [REDACTED] position was federally funded by an IDEA grant. See Affidavits of [REDACTED] and [REDACTED]. Due to Ms. [REDACTED] federally funded position, there was no intent to bill Medicaid for the services she rendered. Therefore, no referral for the rehabilitative assistance was required or acquired.

R.G.'s IEP well documented his behavioral management needs. These needs were met each and every day he attended school, including on September 26, 2008, as shown in [REDACTED] Affidavit. Her time slip from that week evidences that she was working with R.G. on the date in question. Therefore, a covered service was provided to R.G. on September 26, 2008, and the transportation claim of \$8.27 from that day is allowable.

Claim #21 T.D.

OIG has made a preliminary finding that T.D. did not receive another Medicaid covered service for the date January 22, 2009. T.D. received medication administered by nursing staff at the [REDACTED] ([REDACTED]) on January 22, 2009. Therefore, T.D. did receive a Medicaid covered service on the date in question, and so the transportation services for January 22, 2009, are properly reimbursable.

T.D. was a child with severe disabilities. He suffered from mental retardation and acute emotional problems that required transportation, individual counseling services, direct instruction by a special education teacher, nursing services to render medication and treatment at the [REDACTED] [REDACTED] neuro-behavioral and autistic residential program five times a week per his IEP. IEP at pages 1, 8 and 11.

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As part of his treatment at the [REDACTED] T.D. received several medications while at school. APRN [REDACTED] administered these medications to T.D. on January 22, 2009, as evidenced by the attached [REDACTED] Health SRVC form at page 2. On January 22, 2009, according to the [REDACTED] form, [REDACTED] administered two different medications to T.D. Because there were initials written in the boxes on the form rather than a "D" written in the boxes demonstrates that the medications were, in fact, delivered to T.D. on the date in question. [REDACTED] was properly licensed and qualified to administer the medications as evidenced in the attached documentation.

Under He-M 1301.04(g)-(i) receiving medical treatments from a registered nurse is a Medicaid covered service. Therefore, the medicine T.D. received from APRN [REDACTED] on January 22, 2009, was a Medicaid covered service.

Accordingly, the \$33.80 for transportation services that OIG found unallowable should be allowable because another Medicaid covered service was provided to T.D. on the day in question.

Claim #38 J.D.

OIG has made a preliminary finding that transportation for J.D. for claim #38 was not allowable as it concluded based on a notation of "OTH" that J.D. was absent from school on March 5, 2008, and, thus, transportation was not properly charged.

J.D. was present in school on March 5, 2008, and did receive another Medicaid allowed service on March 5, 2008, and thus transportation is properly allowable. In particular, J.D. received the services of 1:1 paraprofessional or rehabilitative assistant on March 5, 2008. J.D. initially resided in the [REDACTED] School District. Subsequently, he moved to [REDACTED] and his school records were transferred to that district. Thus, at the time of OIG's information request, [REDACTED] School District did not have documentation of other Medicaid covered services.

As reflected in his IEP for the period 9/12/07 through 6/20/08, J.D. was coded as having an emotional disability and was also other health impaired. IEP at 1. He required OT consultation, a shared program aide 5 times per week, and speech therapy twice per week. IEP at page 12. The IEP further noted that his behaviors impeded the learning of others. IEP at 11. J.D. could be very distracted by outside stimulus, get overwhelmed and refuse to work. IEP at 2. He was immature and needed help in social situations. IEP at 2. A licensed health practitioner, [REDACTED] a licensed speech language pathologist, recommended that J.D. receive the services of a paraprofessional in the nonacademic areas on June 11, 2007. A copy of the referral is attached along with copies of Ms. [REDACTED] credentials.

For the date at issue, March 5, 2008, OIG incorrectly concluded that J.D. was absent from school and the transportation billing was in error, as the code "OTH" was recorded for J.D. for that date. "OTH 'other' = Absent" was handwritten by an unknown person on a printout of that attendance record. OTH or "other" does not mean absent, however. Rather, the code OTH means a "school activity" outside the classroom. According to school district personnel, the attendance status "oth" indicates that J.D. was using services in the advance program, because he was having emotional difficulties that day and was working with his case manager/counselor instead of going to class. [REDACTED] School district database analyst, Mr. [REDACTED] has provided a list of [REDACTED] District's attendance codes with the meanings of the various attendance codes, which he developed in conjunction with school administration. An Affidavit will be provided from Mr. [REDACTED] An actual absence from the school would have been reflected

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by a different code, such as "ABS" for excused absent or "UNV" for an unverified absence. Further evidence of J.D.'s presence at school and his receiving 1:1 rehabilitative aide services is the signed log by [REDACTED] rehabilitative aide, which log also bears the signature of the guidance counselor. Ms. [REDACTED] was qualified to provide rehabilitative assistant services. See letter of Principal [REDACTED] dated October 4, 2011, stating that Ms. [REDACTED] is properly credentialed to work as a paraprofessional and has many years of experience working with the EH or emotionally handicapped, in addition to possessing other relevant experience.

As a Medicaid covered service was provided to J.D. on March 5, 2008, the transportation claim of \$156 for that day is allowable.

Claim #39 T.B.

OIG has made a preliminary finding that transportation for T.B. for claim #39 was not allowable as it did not have evidence that another Medicaid allowed service was on November 15, 2006.

T.B. did receive another Medicaid allowed services on November 15, 2006, and, thus, transportation is properly allowable. In particular, T.B. received the services of medication administration on November 15, 2006.

As reflected in his [REDACTED] School IEP for the period of February 17, 2006, through February 16, 2007, T.B. was a 13-year-old boy who had cognitive impairments. Due to the extreme nature of his educational disabilities and significant behavioral issues, [REDACTED] needed to be placed in an out of district special educational facility. IEP at page 1. He required constant staff supervision in both educational and community settings to ensure the safety of himself and others. IEP at 2. He received both group and individual counseling for an hour per week. IEP at 3. One of his goals was to be referred to his local mental health agency and to continue his connection with the area agency [for developmental disabilities]. IEP at 14. His IEP specified he was on a regimen of Seroquel and Clonidine for mood stabilization. IEP at 5.

On November 15, 2006, T.B. received a Medicaid covered service of medication administration at the [REDACTED] School for seroquel 25 mg x2 at noon and Clonidine .05 mg 2 x daily at 11:00 and at 1:45, as administered by [REDACTED]. A medication log including the date November 15, 2006 for T.B. lists the two drugs and bears the initials [REDACTED] in the space to indicate they were provided. The back of the log has the signature and initials of the staff who administered medications with Ms. [REDACTED] signature and initials. See attached [REDACTED] documentation recognizing that [REDACTED] completed the requirements of medication training for 9/05, as witnessed by [REDACTED] RN. Under state regulations for child residential treatment programs, which the [REDACTED] School is, a properly trained staff may administer medications to youth in the programs. He-C 4000.15 (r). Training in medication safety and administration, as required in (r) above shall consist of a minimum of 4 hours of training, exclusive of testing or competency evaluation, and shall: (1) Be delivered by a physician, advanced registered nurse practitioner (ARNP), RN, or LPN practicing under the direction of an ARNP, RN or physician, or by another qualified individual, He-C 4000.15 (s) (1). Here, [REDACTED] completed training under [REDACTED] RN. As [REDACTED] was authorized under state law to administer medications to T.B., this medication administration was a Medicaid covered service. See attached regulation.

Accordingly, as T.B. received another Medicaid covered service on November 15, 2006, transportation for that date is properly reimbursable.

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Claim #42 D.M.

OIG has made a preliminary finding that transportation for D.M. was not allowable as it did not have evidence that another Medicaid allowed service was provided on September 15, 2008.

The NH DHHS responds that D.M. did receive another Medicaid allowed services on September 15, 2008 and thus transportation is properly allowable. In particular, he received speech therapy from speech language assistant, [REDACTED] who was supervised by licensed speech language pathologist, [REDACTED] SLP. Speech and language assistance was required by D.M.'s IEP dated May 28, 2008. Further, there was a recommendation by a licensed health practitioner, [REDACTED] SLP, for D.M. to receive speech therapy services dated September 2006. The recommendation stated D.M. "is a four year old boy presenting with moderate to severe phonological impairment in the presence of what appears to be many age-appropriate language skills as revealed in a language sample. [REDACTED] can be as little as 10% intelligible to an unfamiliar listener if the topic is not known." Recommendations: "[REDACTED] should receive speech therapy, with work focused on improved speech intelligibility and listening comprehension." Speech and Language Evaluation by [REDACTED] SLP, dated September 2006 at page 2. Accordingly, transportation claim #42 for \$5.18 for D.M. for September 15, 2008 is properly reimbursable. See IEP for period May 29, 2008 through May 28, 2009; Team minutes dated May 1, 2008 further documenting speech needs, and attendance of [REDACTED] SLP; Speech Evaluation by SLP [REDACTED] with recommendation for speech therapy services for D.M. dated September 2006; Speech Therapy Log dated July 31, 2008 signed by [REDACTED] SLA documenting services to D.M. on July 15, 2008; Letter dated June 14, 2012 from [REDACTED] Student Services Director stating SLP [REDACTED] supervised [REDACTED] provision of services to D.M.; and copies of credentials for [REDACTED] SLP and [REDACTED] SLP.

Claim #54 J.D.

OIG has made a preliminary finding that J.D. did not receive another Medicaid covered service on October 18, 2005. J.D. had a diagnosis of autism and mental retardation. His IEP stated "[REDACTED] currently attends an out-of-district special education school due to the extreme nature of his disabilities." IEP at page 2. He had a number of behavioral challenges, including aggression at times, running out of the room and attempting to leave the building, and a poor sense of personal boundaries. He was on medications for stabilization and mood control. IEP at page 4. He was not able to participate in any regular education programming, nor was it recommended that it be attempted at that time. Among the services required by J.D.'s IEP were one hour of individual counseling and one hour of group counseling each week in order to meet his potential. IEP at page 3. See also IEP annual goal 4.0, requiring individual counseling, group counseling and therapeutic crisis intervention.

On October 18, 2005, J.D. received group therapy from [REDACTED] who was properly credentialed. See Attached Counseling Noted dated October 18, 2005 by [REDACTED] for J.D. [REDACTED] was properly credentialed as a counselor. Mr. [REDACTED] earned a Master's Degree in counseling and Community Psychology in 1983 from [REDACTED]. Further, his experience documented on the attached resume establishes that he has satisfied Ed 507.07 School Guidance Counselor and He-M 1301 requirements. Ed 507.07 School Guidance Counselor is referenced in Provider Qualifications under mental health in He-M 1301. Ed 507.07 (a)(2)(b), states: Experience in comparable positions in school guidance counseling or other professions closely related to school guidance counseling. In 2004, Mr. [REDACTED] had worked for four years at the Mental Health Center of [REDACTED] as a child and adolescent therapist.

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As J.D. received another Medicaid covered service of group counseling on October 18, 2005, transportation for that date is properly allowable.

Claim #64 A.S.

OIG has made a preliminary finding that transportation for A.S. for was not allowable as it did not have evidence that another Medicaid allowed service was on September 16, 2005.

A.S. did receive another Medicaid allowed services on September 16, 2005 and thus transportation is properly allowable. In particular, A.S. received the services of a 1:1 rehabilitative assistant on September 16, 2005.

As reflected in his IEP dated June 9, 2005, A.S. was an 11 year old boy with significant development delays due to Downs Syndrome, Wolf-Parkinson-White Syndrome, ventricular septal defect, agenesis of the corpus collosum, autism, asthma and frequent ear infections. IEP at page 3. He received speech therapy, occupational therapy, and worked with a 1:1 paraprofessional each day. IEP at page 3. A.S. was essentially nonverbal, his one spoken word being mama, though he knew several signed words. IEP at page 6. A.S. required supervision while eating for safety purposes, IEP at 7, and needed help with special eating utensils. IEP at 7. His mouthing objects in the classroom was a safety concern. IEP at 7. He had an oral motor program to increase his muscle tone and to improve his awareness and endurance of eating. IEP at 7. Around the fall of 2004, these oral sensitivity issues had lead to A.S. pulling the teeth out of his own mouth, roots and all. See Meeting Minutes dated January 28, 2005. See also attached IEP dated 6/9/05 requiring 1:1 services. A.S. was diapered and needed personal care for changing of diapers and cleaning. A toileting program was developed between school and home. See attachment to IEP. Given his health conditions, A.S. also presented a number of behavioral challenges, including throwing objects and running away if not closely monitored by his 1:1 and other staff.

Due to the severity of these needs, A.S. required a 1:1 rehabilitative aide, as specified in his IEP. A referral or recommendation by licensed health practitioner, SLP [REDACTED]. [REDACTED] ordered 1:1 services for A.S. Ms. [REDACTED] is credentialed as a speech language pathologist. See attached documents.

From September 2005 to sometime in November 2005, A.S. was a student in a special education classroom at the [REDACTED] School in [REDACTED]. In November 2005, he was placed in an out of district placement that was more equipped to meet his extensive needs. In September 2005, and in particular on September 16, 2005, A.S. had the services of 1:1 rehabilitative aide, [REDACTED] Mr. [REDACTED] worked with A.S. providing physical care, monitoring and behavioral management for part of each day. See Affidavit of [REDACTED]

Mr. [REDACTED] states that he assisted with A.S.'s diapering and cleaning needs, supervised and assisted with eating, ensured that A.S. did not place nonfood items in his mouth, prevented A.S. from suddenly running away when they traveled outside the classroom, worked with A.S. on communication through his picture board. Mr. [REDACTED] provided behavior management for A.S. through a reward system. See Affidavit of [REDACTED] Assistant Principal [REDACTED] states that [REDACTED] was an experienced and long time rehabilitative aid and was assigned to work as a 1:1 rehabilitative assistant with A.S. in September 2005. He observes that A.S. presented challenges. Sometimes, the disabled youth would smear feces on others, he had toileting issues, and he would run away if not closely supervised. Mr. [REDACTED] attendance record is attached documenting his attendance on September 16, 2008. See Affidavit of [REDACTED] Accordingly, transportation claim #64

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for \$27.89 for A.S. for September 16, 2005 is properly reimbursable. See Attached IEP for August 30, 2005 through June 30, 2006; Team Minutes for January 28, 2005, May 2, 2005, May 20, 2005 and June 9, 2005; Recommendation for Rehabilitative Assistance dated September 16, 2004 by licensed health care practitioner [REDACTED] SLP; credentials for Ms. [REDACTED] Affidavit of 1:1 rehabilitative assistant [REDACTED] and Affidavit of [REDACTED] with documentation of [REDACTED] presence on September 16, 2005.

Claim #76 M.B.

OIG has made a preliminary finding that transportation for M.B. for claim #76 was not allowable as it did not have evidence that another Medicaid covered service was performed on the following seven dates in October 2007 - October 2, 3, 5, 10, 17, 24, and 30, 2007.

The NH DHHS responds that M.B. did receive another Medicaid allowed service of a 1:1 rehabilitative assistant on October 2, 3, 5, 10, 17, 24, and 30, 2007. Thus, transportation for these dates is properly allowable.

As reflected in the IEP dated June 2007, M.B. was born with Smith-Magenis syndrome. IEP at page 2. She had a complex medical history, including Smith-Magenis syndrome, Pierre Robin sequence with a status post cleft palate repair, status post tracheotomy tube, decannulation on May 2007, developmental delays and speech-language delays. See Medical note dated 8/8/2007 from [REDACTED]. She experienced a number of other and related health conditions, including failure to thrive, gastro esophageal reflux disease, and hypothyroidism. IEP for 6/04/07 through 6/04/08 at page 2. She needed medical assistance to improve her functional mobility skills, and large motor skills, develop her play skills, which were delayed, and increase her communication skills, both expressive and receptive. IEP at page 2. Given these issues, [REDACTED] required an adult to be with her at all times for all activities of daily living and for safety issues. IEP at 2 and 3. In addition to a 1:1 rehabilitative aide, M.B. needed speech, OT, PT, nursing services and staff consultations in OT, PT, speech and behavior. M.B. had a G tube through which she received most of her nutritional intake, and which required careful monitoring by the 1:1 aide lest M.B. should pull it out. See IEP at 4 and Affidavit of [REDACTED]

Accordingly, a licensed health practitioner wrote a referral/recommendation that M.B. receive the services of a 1:1 rehabilitative aide. See referral for rehabilitative aide dated June 5, 2007 by [REDACTED] licensed PT and M.B.'s special education case manager. Also attached is Ms. [REDACTED] licensure information. Ms. [REDACTED] was M.B.'s 1:1 rehabilitative aide every day and all day during the audit dates in October 2007, on school days that M.B. was in attendance.

Ms. [REDACTED] has provided an affidavit detailing the mobility, communication, behavioral management, nutrition, bladder and bowel care, and other personal care that she provided to M.B. during this time period as her 1:1 aide. She observes that M.B. presented a number of safety concerns, including that M.B. would try to pull out her G tube, had a reduced sense of pain, and had a distorted sense of depth perception. Because of the G tube, Ms. [REDACTED] changed M.B.'s diapers in the nurse's office, so that two people would be present to protect M.B.'s G tube from being pulled out. M.B. also needed help from her 1:1 aide with gross motor activities, such as forming a grasp on her crayon. Together, they worked on learning how to navigate stairs, which were difficult due M.B.'s depth perception issues. M.B. also needed help with eating. M.B. needed help in forming relationships with her peers. When she became upset, the aide would guide her behavior and would calm her down as necessary. Ms. [REDACTED] was supervised in her care to M.B. by a licensed OT, [REDACTED] and a licensed PT, [REDACTED] See Affidavit of [REDACTED] See attached credentials.

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As it has been demonstrated that M.B. received another Medicaid covered service of 1:1 rehabilitative assistance on the audit dates in October 2007, transportation claims for those days are properly allowable.

Claim #93 A.H.

OIG has made a preliminary finding that A.H. did not receive another Medicaid covered service for school dates during the period April 1, 2008 through April 30, 2008. Because he received the services of a 1:1 aide for the dates, as described more fully below, the transportation services for those dates are properly reimbursable.

A.H. was a child with many significant needs. He was diagnosed with bipolar affective disorder, attention deficit and hyperactivity disorder, not otherwise specified, oppositional defiant disorder, and pervasive development disorder. See Affidavit of [REDACTED] who is the case manager and special education coordinator for A.H. at SAU #29 and documents attached to and referenced in Mr. [REDACTED] Affidavit.

Among the services required for A.H. as specified by his IEP were the daily services of a 1:1 rehabilitative aide. Prior to the dates of service at issue, a recommendation was made by a licensed health practitioner, [REDACTED] RN, that A.H. receive the services of a rehabilitation assistant for nonacademic purposes. Attached is a copy of Ms. [REDACTED] nurse license status which shows that she was an RN in 2002 through the present.

Due to the severity and continual nature of A.H.'s behaviors, he needed the constant attention of a 1:1 rehabilitative assistant while he remained in the school district. Nevertheless, he would scream, physically lash out at whomever was in his way, and at times run from the building and require police intervention. See Affidavit of [REDACTED] and attached documentation. The increasing severity of A.H.'s behaviors led to an out of district placement at [REDACTED] School in [REDACTED], where A.H. continued to need and receive the daily services of 1:1 rehabilitative aide.

In the time leading up to the decision to utilize an out of district placement to meet the extreme needs of this then eight and half year old child, one staff stated, "we have had a drastic increase in unsafe behavior (swearing, name calling of staff and students, threatening to kill staff, tossing over of desks, ripping papers, accusing adults of choking, hitting and suffocating him, kicking another student, pulling the hair of his tutor and biting his tutor.)" See Email of [REDACTED] to [REDACTED] and others dated October 23, 2007, affixed to Affidavit of [REDACTED]

A.H. began his out of district placement at [REDACTED] School on January 2, 2008 and continued to receive services there until some time in 2011. He received the services of 1:1 rehabilitative aide, [REDACTED] for much of that time, January 2008 through June 2010. And, in particular, during April 2008, Mr. [REDACTED] provided behavioral management, guidance and support for [REDACTED]

[REDACTED] had severe behavioral and emotional issues and required constant vigilance and attention. His rehabilitative aide accompanied him at all times throughout the school, including when leaving his individualized classroom. He met [REDACTED] at the bus each morning and escorted him back to the bus at the end of the school day. [REDACTED] was placed in a classroom of one, with all non essential materials and furniture, including the chairs, removed from it due to [REDACTED] explosive behaviors, such as over turning and throwing chairs at staff, shoving all books off shelves, tearing up papers, and using pens or pencils as threatening weapons. When walking through the corridor with [REDACTED] during the

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time period at issue, Mr. [REDACTED] needed to prevent A.H. from grabbing and breaking objects. He also had to be watchful that [REDACTED] did not put non-food items in his mouth. [REDACTED] 1:1 aide needed to be aware of his charge's whereabouts and his conduct at all times, including time spent in the bathroom. On one occasion shortly after his arrival at [REDACTED] School, after A.H. spent a somewhat longer time in the bathroom, his aide inquired further and discovered him naked, with a toilet plunger stuck to the wall, rolls of tissue unraveled on the floor, the sink full of water and overflowing, and excrement on the toilet seat. See Affidavit of [REDACTED]

Mr. [REDACTED] worked with [REDACTED] to help [REDACTED] to learn to de-escalate before an episode of explosive rage occurred. Given A.H.'s oppositional defiant disorder, the rehabilitative aide needed to use techniques that avoided traditional displays of authority in the educational setting and that would build trust. See Affidavit of [REDACTED]

[REDACTED] full time job was to be [REDACTED] 1:1 rehabilitative aide. With the exception of April 7, 2008, which was a personal day off for the aide, [REDACTED] was present at [REDACTED] and worked directly with A.H. for all days that the youth was in attendance. See attached [REDACTED] attendance records for April 2008. On the one date that [REDACTED] was not present, another qualified 1:1 aide assisted [REDACTED] throughout the day, as this was necessary to meet A.H.'s intensive needs. Further documentation of 1:1 services being provided is evidenced by the [REDACTED] School invoices dated 1/25/2008 and 4/07/2008, which have itemized statements regarding the separate charge for A.H.'s 1:1 rehabilitative aide. See Affidavit of [REDACTED], Executive Director of [REDACTED] School.

As A. H. had another Medicaid covered service of a 1:1 rehabilitative aide for the dates in question, his specialized transportation was properly reimbursable.

Student #94 J.W.

OIG has made a preliminary finding that J.W. did not receive another Medicaid covered service for the school dates during the period November 26, 2007 through November 30, 2007. Specifically, OIG's preliminary finding is that no Medicaid covered service was provided to J.W. on November 26, 2007, November 28, 2007 and November 30, 2007. Because J.W. received Medicaid covered services on the dates in question, as described more fully below, the transportation services for those dates are properly reimbursable.

J.W. was a child with many significant medical needs. He was diagnosed with grade II retinopathy of pre-maturity (legally blind), hypotonia, seizure disorder, communication and intellectual impairment. J.W. had a significant medical history including intraventricular hemorrhage, brain cyst, gastrostomy tube placement (not used at school), VP shunt placement and revision, skin breakdown and orthopedic surgeries. He was also on medications. J.W. was placed out of district at [REDACTED], [REDACTED] School in [REDACTED], [REDACTED] in order to meet his significant needs.

J.W. worked on his hygiene related ADL's at school, but needed significant assistance. He was able to bring a washcloth to his mouth, but did not wash his entire face. He was able to hold his toothbrush in his mouth and move it around. J.W. was able to wipe his hands and place them under running water. During the 2007-2008 school year, he was sitting on the toilet 3 -4 times a day and frequently remained dry. His IEP goal was to remain dry 60 - 70 % of the time.

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J.W. was able to self-feed with a regular spoon but would sometimes use a curved, weighted spoon to decrease dipping vs. scooping with the spoon. He would also use a scoop plate with suction to attach to the table. J.W. had to be observed and cued during eating to avoid pocketing food in his cheeks and engaging in self-stimulatory behaviors such as dropping his food to hear the sound of it hitting the floor.

In the classroom, J.W. displayed a number of inappropriate behaviors including temper tantrums, cursing, spitting, biting his hand, throwing items or dropping them on the floor. J.W. engaged in self-stimulatory behaviors such as ear and nose tapping and singing. With cues, J.W. would stop self-stimulatory behaviors, but then would frequently re-start the behavior in a few seconds to minutes.

J.W. received OT, PT, Speech and Language Therapy, consultation from a teacher of the visually impaired and community education. He received individual OT once a week and group OT every day, PT 3 times a week and Speech 2 times a week. On November 26, 2007 J.W. received an individual Physical Therapy session from [REDACTED], a licensed Physical Therapist. See copy of the transaction loge and license of Ms. [REDACTED].

J.W. also received significant assistance from a classroom-based nurse who was responsible to meet his ADL and medical needs including constant monitoring and frequent intervention. See Affidavit of [REDACTED].³

J.W. had severe medical needs that required constant vigilance and attention. J.W. had a Health Care Plan in place that required daily monitoring by the classroom nurse. The classroom nurse was responsible to observe J.W. for nausea, vomiting, lethargy, headache, seizures and change in level of consciousness due to possible shunt malfunction. The nurse also had to observe skin breakdown on coccyx, spine and feet due to immobility and incontinence. See Health Care Plan of J.W. Under He-M 1301.04(h) the services provided to J.W. on a daily basis are Medicaid covered services.

Of the total amount of \$539.00 that OIG found unallowable, \$125.60 was due to a billing error on the part of the school district. The remainder in the amount of \$413.40 should be allowable as another Medicaid covered service was provided on the days in question.

Improvements to Medicaid to School Billing Process

As stated in its response to OIG's review of the Manchester Medicaid to School program, NH DHHS recognizes that transportation should only be billed on a date when another Medicaid covered service is provided. During the period audited, NH DHHS had interpreted CMS guidance in the SMDL dated May 1999 to authorize billing for specialized transportation without such other service. OIG's audit of Manchester MTS, which report was issued only several months ago, raised this issue to the State for the first time. NH DHHS recognized that it was appropriate that it review and revise its guidance to districts on this issue. Going forward, NH DHHS will require another Medicaid covered service be provided on a date for which specialized transportation is billed to Medicaid.

³ We have submitted a signed Affidavit that has not been notarized. A notarized copy of the Affidavit will be submitted subsequently.

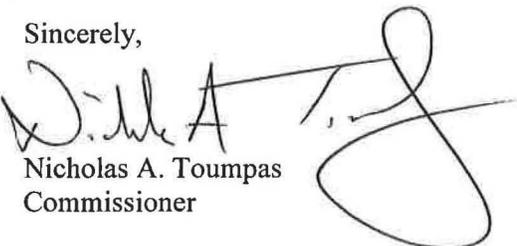
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OIG has also raised unique concerns about Jaffrey school district's billings contained in stratum one, for which NH DHHS will do a closer review. Stratum one claims also involved two claims from a second district that had been dissolved and which stated that it could not locate records from the dissolved entity. NH DHHS will seek further information about these two claims from the relevant organizations. Finally, OIG identified individual instances of billing related to errors in billing, including an occasional instance in which student was absent and did not receive the billed service. With respect to individual instances of billing errors, NH DHHS has and will continue to engage in an ongoing audit review and education process regarding MTS billings with school districts.

As stated in the recently concluded Manchester MTS audit, an improved electronic billing system has been, and is continuing to be, developed by certain of the school districts' billing intermediaries with the engagement of NH DHHS. This improved system will provide for electronic recordation of services, certain provider logs, certain provider criteria and electronic billing. As a result, NH DHHS anticipates that it will have an enhanced ability to perform utilization and review of MTS services because we will have direct access to these billing systems and have the ability to conduct some audit functions remotely. Additionally, NH DHHS anticipates that the electronic billing process will also lead to a decrease in billing errors due to single entry of data and the existence of built in billing edits.

Thank you for the opportunity to respond. If you have questions, please feel free to contact Mary Castelli at 603-271-9385.

Sincerely,



Nicholas A. Toumpas
Commissioner

cc: Nancy Rollins, Associate Commissioner, NH DHHS
Mary Castelli, Senior Division Director, NH DHHS
Stephen Mosher, Controller, NH DHHS
Matthew Ertas, Chief, Bureau of Developmental Services, NH DHHS