

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**REVIEW OF MEDICAID PAYMENTS
FOR OUTPATIENT SERVICES AND
PRESCRIPTION DRUGS PROVIDED TO
INCARCERATED RECIPIENTS IN THE
STATE OF NORTH CAROLINA**



JANET REHNQUIST
Inspector General

OCTOBER 2002
A-04-02-06003

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OAS FINDINGS AND OPINIONS

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OCT 31 2002

REGION IV
Room 3T41
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8909

CIN: A-04-02-06003

Ms. Nina M. Yeager, Director
Department of Health & Human Services/
Department of Medical Assistance
2517 Mail Service Center
Raleigh, North Carolina 27699-2517

Dear Ms. Yeager:

This final report provides you with the results of our *Review of Medicaid Payments for Outpatient Services and Prescription Drugs Provided to Incarcerated Recipients in the State of North Carolina*.

EXECUTIVE SUMMARY

OBJECTIVE

The objective of our review was to determine the extent to which the state used Medicaid funds to pay for prescription drugs and other (non-inpatient/long term care) health care services provided to inmates. Our review covered Medicaid fee-for-service claims paid by North Carolina during the period October 1, 1998 through September 30, 2001.

FINDINGS

We found that the State of North Carolina's controls were generally adequate to ensure that Medicaid did not pay for outpatient services and prescription drugs provided to incarcerated recipients.

The Centers for Medicare & Medicaid Services (CMS) guidelines and state Medicaid regulations provide that Medicaid will not cover outpatient services or the cost of prescription drugs for inmates. Out of a sample of 100 claims, we found only 3 claims totaling \$126 (federal share \$79) paid on behalf of incarcerated recipients.

RECOMMENDATIONS

We recommend that the state investigate the three claims to determine why the payments were made.

In their written response to our draft report, the State of North Carolina concurred with our overall finding that North Carolina's controls are generally adequate to ensure Medicaid does not pay for outpatient services and prescription drugs. In response to our recommendation, the state investigated the three claims paid on behalf of incarcerated individuals. The state was unable to establish that the claims were paid for the individuals while they were incarcerated and requested additional details on our review procedures. The complete text of the state's comments is attached as an appendix to this report. We are providing the additional information on the three claims.

Glossary of Abbreviations and Acronyms

CFR Code of Federal Regulations
CMS Centers for Medicare and Medicaid Services
FFP Federal financial participation
HHS Department of Health and Human Services
MSIS Medicaid Statistical Information System
SSA Social Security Administration

INTRODUCTION

BACKGROUND

During a prior audit entitled, *Review of Medicare Payments for Services Provided to Incarcerated Beneficiaries* (A-04-00-05568), we determined that the CMS had not obtained recipient data from the Social Security Administration (SSA) that identified incarcerated recipients. As a result, potentially improper Medicare payments were made by CMS. Based on this work, we undertook a review of Medicaid fee-for-service payments for services provided to incarcerated recipients in four states to determine if state Medicaid programs have similar vulnerabilities. The State of North Carolina was one of the four states selected for review.

Generally, national Medicaid policy states that Medicaid federal financial participation (FFP) will not be paid for inmates. The CMS policy, based on Section 1905 of the Social Security Act, is that FFP is not available for services provided to inmates except when the inmate is transferred from the prison grounds to an inpatient facility for medical treatment.

Section 1905. [42 U.S.C. 1396d] For purposes of this title –

- (a) The term “medical assistance” means payment of part or all of the cost of the following care and services...for individuals, and, with respect to physicians’ or dentists’ services, at the option of the State, to individuals...not receiving aid or assistance under any plan of the State approved under Title I, X, XIV, or XVI, or Part A of Title IV, and with respect to whom supplemental security income benefits are not being paid under title XVI, who are...

Except as otherwise provided in paragraph (16), such term does not include –

- (A) *any such payments with respect to care or services for any individual who is an inmate of a public institution (except as a patient in a medical institution)*
[Emphasis added]; or...

Additional federal criteria can be found at 42 Code of Federal Regulations (CFR) 435.1008 and 42 CFR 435.1009.

42 CFR 435.1008 Institutionalized individuals.

- (a) FFP is not available in expenditures for services provided to—

- (1) Individuals who are inmates of public institutions as defined in §435.1009...

42 CFR 435.1009 Definitions relating to institutional status.

Inmate of a public institution means a person who is living in a public institution. An individual is not considered an inmate if—

- (a) He is in a public educational or vocational training institution for purposes of securing education or vocational training; or
- (b) He is in a public institution for a temporary period pending other arrangements appropriate to his needs.

Public Institution means an institution that is the responsibility of a governmental unit or over which a governmental unit exercises administrative control. The term “public institution” does not include:

- (a) A medical institution as defined in this section;
- (b) An intermediate care facility as defined in §§440.140 and 440.150 of this chapter;
- (c) A publicly operated community residence that serves no more than 16 residents, as defined in this section; or
- (d) A child-care institution as defined in this section ...

On December 12, 1997, CMS issued a letter to all Associate Regional Administrators clarifying CMS’ Medicaid coverage policy for inmates of a public institution. In that guidance, CMS lists situations where FFP would and would not be available for services provided to inmates. According to this CMS guidance, FFP would be available for services provided to “inmates who become inpatients of a hospital, nursing facility, juvenile psychiatric facility or intermediate care facility for the mentally retarded (Note: subject to meeting other requirements of the Medicaid program).”

OBJECTIVE, SCOPE, AND METHODOLOGY

The objective of our review was to determine the extent to which the State of North Carolina used Medicaid funds to pay for prescription drugs and other (non-inpatient/long term care) health care services provided to inmates. Our review covered Medicaid fee-for-service claims paid by North Carolina during the period October 1, 1998 through September 30, 2001.

To perform our review, we compared a file of incarcerated individuals provided by SSA to CMS’s Medicaid Statistical Information System (MSIS) file of fee-for-service claims for outpatient and prescription drugs paid during the period October 1, 1998 through September 30, 2001. Based on this comparison, we compiled a database of fee-for-service claims paid on behalf of individuals who had been identified as incarcerated at the time the Medicaid service was rendered. The comparison of these North Carolina claims resulted in a universe of 388,873 fee-for-service paid claims totaling \$33,319,191. Using this universe, we selected a random sample of 100 Medicaid fee-for-service paid claims totaling \$10,924.

We validated the data contained in MSIS to the state's MMIS or paid claims history file. We then determined when and where the recipient was incarcerated. For the most part, the incarceration data from SSA did not identify the prisoner release date. Thus, several steps were performed to determine if the Medicaid payment was made for a service provided during a period of incarceration.

The steps included contacting:

- incarceration and reporting entities shown in the SSA database;
- district office(s) of the SSA;
- the state's Medicaid Fraud Control Unit; and
- federal, state, and local correctional institutions.

We also searched for incarceration records utilizing internet sites containing state and federal prisoner databases.

We conducted our review in accordance with generally accepted government auditing standards. Our review was limited in scope. Our review was not intended to be a full-scale internal control assessment of the Medicaid agency operations. The objectives of our audit did not require an understanding or assessment of the overall internal control structure of the agency.

We performed our review during the period October 2001 through August 2002. The work was performed at the Medicaid offices in Raleigh, North Carolina, and at the Office of Inspector General, Office of Audit Services in Jacksonville and Miami, Florida.

FINDINGS AND RECOMMENDATIONS

The CMS guidelines and state Medicaid regulations provide that Medicaid will not cover outpatient services or the cost of prescription drugs for inmates.

We found that the State of North Carolina's controls were generally adequate to ensure that Medicaid did not pay for outpatient services and prescription drugs provided to incarcerated recipients. Out of a sample of 100 claims, we found only three fee-for-service claims totaling \$126 (federal share \$79) that were paid on behalf of incarcerated recipients.

The following table summarizes the results of our review:

<i>Description</i>	<i>Sample Amount</i>	<i>Number of Claims</i>	<i>Number of Recipients</i>
<i>Allowable</i>	\$10,798	97	93
<i>Unallowable</i>	126	3	3
<i>Total</i>	\$10,924	100	96

We believe that North Carolina did not pay for outpatient services and prescription drugs provided to incarcerated recipients because the state's procedures for Medicaid eligibility determinations considered incarceration status. For example, both the Adult Medicaid Manual and the Family & Children's Medicaid Manual specifically require caseworkers to "identify the type of residence" for each applicant. The Living Arrangements sections of the Manuals provide that "Inmates (of any age) of a penal institution are not eligible for Medicaid."

CONCLUSIONS AND RECOMMENDATION

In summary, the State of North Carolina's controls were generally adequate to ensure that Medicaid did not pay for outpatient services and prescription drugs provided to incarcerated recipients. Out of a sample of 100 claims, we found only 3 fee-for-service claims totaling \$126 (federal share \$79) that were paid on behalf of incarcerated recipients.

We are recommending that the state investigate these claims to determine why the payments were made.

AUDITEE'S COMMENTS:

The state concurred with our overall finding that North Carolina's controls are generally adequate to ensure Medicaid does not pay for outpatient services and prescription drugs. In response to our recommendation, the state investigated the three claims paid on behalf of incarcerated individuals. The state was unable to establish that the claims were paid for the individuals while they were incarcerated and requested additional details on our review procedures. The complete text of the state's comments is attached as an appendix to this report.

OIG RESPONSE:

The following information is provided in response to the state's request for additional information:

For sample number 11, we found that the individual in question was incarcerated in the IW Davis Probation Detention Center on the date of the sample Medicaid service.

For sample number 12, our finding was based on the prisoner identification number provided by SSA and associated with this individual's social security number. Federal Bureau of Prison records show that the individual was incarcerated on the date of the Medicaid service.

For sample number 53, our finding was based on information obtained from the Twin Towers Correctional facility in California. Subsequent to receiving the auditee's comments, we re-contacted the officers at the facility and verified that the state is correct in that the incarcerated individual had a different social security number than the individual in the sample.

Final determination as to actions taken on all matters reported would be made by the Department of Health and Human Services (HHS) action official named on the second page of the letter preceding this report. We request that you respond to the HHS action official within 60 days from the date of this letter. Your response should present any comments or additional information that you believe may have a bearing on the final determination.

To facilitate identification, please refer to report number A-04-02-06003 in any correspondence related to this report.

Sincerely yours,


Charles J. Curtis
Regional Inspector General
for Audit Services, Region IV

Enclosures – as stated

APPENDICES

Post-It Fax Note 7671

To: *Nina Yeager*

Co./Dept: *OIG*

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Fax # *919-857-4422*

Date: *10/11*

From: *Armen Odom*

Cd: *NC-Medicaid*

Phone # *919-857-4422*

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of Pages: *2*



North Carolina
Department of Health and Human Services
Division of Medical Assistance
Director's Office

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Michael F. Easley, Governor
Armen Hooker Odom, Secretary

Nina M. Yeager, Director

September 13, 2002

Mr. Charles J. Curtis, Regional Inspector General
Office of the Inspector General
Office of Audit Services, REGION IV
61 Forsyth Street, S.W., Suite 3T41
Atlanta, Georgia 30303

CIN: A-04-02-06003

Dear Mr. Curtis,

This replies to your office's draft report entitled ***Review of Medicaid Payments for Outpatient Services and Prescription Drugs Provided to Incarcerated Recipients in the State of North Carolina.*** We appreciate the opportunity to review the draft and offer comments.

We concur with your overall finding that North Carolina's controls are generally adequate to ensure Medicaid does not pay for outpatient services and prescription drugs provided to incarcerated recipients. According to your report, in a sample of 100 claims, you found only three paid on behalf of incarcerated individuals. Your letter recommended that the state investigate these claims to determine how these payments occurred.

We agree it is important to determine whether our controls need to be modified or strengthened in some way. After investigating the three claims, we have been unable to establish that any were paid for these individuals while they were incarcerated. Our results are described below:

Sample #	Name	Date of Service	Our findings
11	Mitchell Curtis	3/27/01 & 3/28/01	The county department of social services telephoned the Clerk of Court Office in Fannin County, Georgia. The staff person there stated they have no record of this individual being incarcerated on 3/27-3/28/01. They did have other dates of incarceration for him, however. How did your office verify that the same individual listed in your OIG sample was incarcerated on 3/27/01 & 3/28/01?

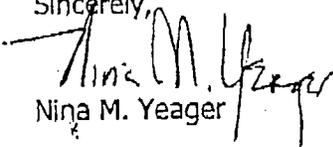
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Page 2

Sample #	Name	Date of Service	Our findings
12	Jasper Wilson	7/25/00	This recipient is enrolled in a managed care program. According to his primary care provider he is well known to them and was seen in their office on 7/25/2000 as well as 2 additional dates in July 2000. The county's Medicaid file documents a telephone conversation with Mr. Wilson on 6/14/2000 and states he was physically present at an appeal hearing on 7/26/2000. How did your office confirm that this Jasper Wilson was incarcerated on 7/25/2000?
53	Regina Kelly Ward	8/2/01	Ms. Ward is an SSI recipient and that is the basis for her receipt of Medicaid. We contacted the local Social Security Office and they have not received any report of her incarceration from SSA's prisoner system. We also telephoned the California prison system. Their records list an inmate named Regina Ward but the date of birth and Social Security number are different from those of our recipient and differ from the date of birth and SSN listed in the OIG sample. How did your office verify that the individual listed in your sample was incarcerated on 8/2/01?

As a result of our investigation, we have no evidence documenting the need to modify our controls. If your office can help us verify that any or all of the three identified claims were paid on behalf of incarcerated individuals, we will analyze how to improve our controls.

Again, we appreciate the opportunity to review the draft report and offer comments. Should you have questions or need further information, contact Barbara Brooks at 919-857-4019.

Sincerely,


Nina M. Yeager

Cc: Lanier Cansler
Gary Fuquay
Bo Nowell
Barbara Brooks
file

ACKNOWLEDGMENTS

This report was prepared under the direction of Charles J. Curtis, Regional Inspector General for Audit Services, Region IV. Other principal Office of Audit Services staff that contributed include:

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