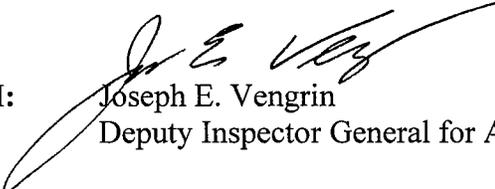


**MAY - 7 2009**

TO: Charlene Frizzera
Acting Administrator
Centers for Medicare & Medicaid Services

FROM: 
Joseph E. Vengrin
Deputy Inspector General for Audit Services

SUBJECT: Review of Medicaid Services to Incarcerated Juveniles in the State of Georgia for Federal Fiscal Years 2003 and 2004 (A-04-06-00026)

Attached is an advance copy of our final report on non-inpatient Medicaid services to incarcerated juveniles claimed by the Georgia Department of Community Health (the Medicaid agency) for Federal fiscal years (FY) 2003 and 2004. We will issue this report to the Medicaid agency within 5 business days.

During a prior review of Medicaid targeted case management services in Georgia (A-04-06-00022), the Office of the Inspector General found that the Medicaid agency inappropriately claimed Federal financial participation (FFP) for targeted case management services to juveniles involuntarily residing in public institutions controlled by the Georgia Department of Juvenile Justice (DJJ). These individuals (juvenile inmates of public institutions) were awaiting criminal proceedings, penal dispositions, or other involuntary detainment determinations. The Centers for Medicare & Medicaid Services considers such individuals to be "inmates of public institutions," and non-inpatient medical services provided to them are ineligible for FFP pursuant to section 1905(a)(A) of the Social Security Act.

Our objective was to determine whether the Medicaid agency claimed FFP for certain non-inpatient medical services provided to juvenile inmates of public institutions.

For Federal FYs 2003 and 2004, the Medicaid agency inappropriately claimed \$3,769,787 (\$2,325,742 Federal share) in costs relating to non-inpatient medical services provided to juvenile inmates of public institutions because neither the Georgia DJJ nor the Medicaid agency had adequate controls to ensure that those services were excluded from FFP.

We recommend that the Medicaid agency refund to the Federal Government the \$2,325,742 overpayment for Federal FYs 2003 and 2004, examine claims made during the period subsequent to our audit for compliance with these requirements and refund any overpayments identified, and establish monitoring procedures to provide reasonable assurance that DJJ has adequate controls

to ensure the accuracy of Medicaid eligibility status codes needed to identify juvenile inmates of a public institution.

In written comments to the draft report, the Medicaid agency requested we delay the release of our report until April 6, 2009, to give it “the opportunity to review each claim considered ‘erroneously reimbursed.’” We delayed issuance of our report; however, neither the Georgia DJJ nor the Medicaid agency provided additional support for the Medicaid agency’s assertion that juveniles voluntarily residing at the Regional Youth Detention Centers were included in our overpayment calculation.

If you have any questions or comments about this report, please do not hesitate to call me, or your staff may contact George M. Reeb, Assistant Inspector General for the Centers for Medicare & Medicaid Audits, at (410) 786-7104 or through e-mail at George.Reeb@oig.hhs.gov or Peter J. Barbera, Regional Inspector General for Audit Services, Region IV, at (404) 562-7750 or through e-mail at Peter.Barbera@oig.hhs.gov. Please refer to report number A-04-06-00026.

Attachment

REGION IV
61 Forsyth Street, S.W., Suite 3T41
Atlanta, Georgia 30303

MAY 12 2009

Report Number: A-04-06-00026

Ms. Carie Summers
Chief Financial Officer
Georgia Department of Community Health
Division of Medical Assistance
2 Peachtree Street, NW.
Atlanta, Georgia 30303-3159

Dear Ms. Summers:

Enclosed is the U.S. Department of Health and Human Services (HHS), Office of Inspector General (OIG), final report entitled "Review of Medicaid Services to Incarcerated Juveniles in the State of Georgia for Federal Fiscal Years 2003 and 2004." We will forward a copy of this report to the HHS action official on the following page for review and any action deemed necessary.

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

Pursuant to the Freedom of Information Act, 5 U.S.C. § 552, OIG reports generally are made available to the public to the extent the information is not subject to exemptions in the Act. Accordingly, this report will be posted on the Internet at <http://oig.hhs.gov>.

If you have any questions or comments about this report, please do not hesitate to call me, or contact Eric Bowen, Audit Manager, at (404) 562-7789 or through e-mail at Eric.Bowen@oig.hhs.gov. Please refer to report number A-04-06-00026 in all correspondence.

Sincerely,

Handwritten signature of Peter J. Barbera in cursive script.

Peter J. Barbera
Regional Inspector General
for Audit Services

Enclosure

Direct Reply to HHS Action Official:

Ms. Nanette Foster Reilly
Consortium Administrator
Consortium for Financial Management & Fee for Service Operations
Centers for Medicare & Medicaid Services
601 East 12th Street, Room 235
Kansas City, Missouri 64106

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**REVIEW OF MEDICAID SERVICES
TO INCARCERATED JUVENILES IN
THE STATE OF GEORGIA FOR
FEDERAL FISCAL YEARS
2003 AND 2004**



Daniel R. Levinson
Inspector General

May 2009
A-04-06-00026

Office of Inspector General

<http://oig.hhs.gov>

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

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The Office of Audit Services (OAS) provides auditing services for HHS, either by conducting audits with its own audit resources or by overseeing audit work done by others. Audits examine the performance of HHS programs and/or its grantees and contractors in carrying out their respective responsibilities and are intended to provide independent assessments of HHS programs and operations. These assessments help reduce waste, abuse, and mismanagement and promote economy and efficiency throughout HHS.

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The Office of Evaluation and Inspections (OEI) conducts national evaluations to provide HHS, Congress, and the public with timely, useful, and reliable information on significant issues. These evaluations focus on preventing fraud, waste, or abuse and promoting economy, efficiency, and effectiveness of departmental programs. To promote impact, OEI reports also present practical recommendations for improving program operations.

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The Office of Investigations (OI) conducts criminal, civil, and administrative investigations of fraud and misconduct related to HHS programs, operations, and beneficiaries. With investigators working in all 50 States and the District of Columbia, OI utilizes its resources by actively coordinating with the Department of Justice and other Federal, State, and local law enforcement authorities. The investigative efforts of OI often lead to criminal convictions, administrative sanctions, and/or civil monetary penalties.

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The Office of Counsel to the Inspector General (OCIG) provides general legal services to OIG, rendering advice and opinions on HHS programs and operations and providing all legal support for OIG's internal operations. OCIG represents OIG in all civil and administrative fraud and abuse cases involving HHS programs, including False Claims Act, program exclusion, and civil monetary penalty cases. In connection with these cases, OCIG also negotiates and monitors corporate integrity agreements. OCIG renders advisory opinions, issues compliance program guidance, publishes fraud alerts, and provides other guidance to the health care industry concerning the anti-kickback statute and other OIG enforcement authorities.

Notices

THIS REPORT IS AVAILABLE TO THE PUBLIC
at <http://oig.hhs.gov>

Pursuant to the Freedom of Information Act, 5 U.S.C. § 552, Office of Inspector General reports generally are made available to the public to the extent that information in the report is not subject to exemptions in the Act.

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

Section 1905(a) of the Social Security Act (the Act) authorizes State Medicaid agencies to provide medical services to eligible Medicaid beneficiaries. However, subparagraph (A) of section 1905(a) of the Act specifically excludes Federal financial participation (FFP) for care or services provided to inmates of a public institution, except when inmates are patients in a medical institution.

During a prior review of Medicaid targeted case management services in Georgia (A-04-06-00022), the Office of the Inspector General found that the Georgia Department of Community Health (the Medicaid agency) inappropriately claimed FFP for targeted case management services to juveniles involuntarily residing in public institutions controlled by the Georgia Department of Juvenile Justice (DJJ). These individuals (juvenile inmates of public institutions) were awaiting criminal proceedings, penal dispositions, or other involuntary detainment determinations. The Centers for Medicare & Medicaid Services considers such individuals to be “inmates of public institutions,” and non-inpatient medical services provided to them are ineligible for FFP pursuant to section 1905(a)(A) of the Act.

OBJECTIVE

Our objective was to determine whether the Medicaid agency claimed FFP for certain non-inpatient medical services provided to juvenile inmates of public institutions.

SUMMARY OF FINDINGS

For Federal fiscal years (FY) 2003 and 2004, the Medicaid agency claimed \$3,769,787 (\$2,325,742 Federal share) in costs relating to non-inpatient medical services provided to juvenile inmates of public institutions. The Medicaid agency inappropriately claimed these costs because neither the DJJ nor the Medicaid agency had adequate controls to ensure that services to inmates of public institutions were excluded from FFP, in compliance with Federal requirements.

RECOMMENDATIONS

We recommend that the Medicaid agency:

- refund to the Federal Government the \$2,325,742 overpayment for Federal FYs 2003 and 2004,
- examine claims made during the period subsequent to our audit for compliance with these requirements and refund any overpayments identified, and
- establish monitoring procedures to provide reasonable assurance that DJJ has adequate controls to ensure the accuracy of Medicaid eligibility status codes needed to identify juvenile inmates of a public institution.

MEDICAID AGENCY COMMENTS

In written comments to the draft report, the Medicaid agency requested we delay the release of our report until April 6, 2009, to give it “the opportunity to review each claim considered ‘erroneously reimbursed.’” The Medicaid agency’s comments are included in their entirety as the Appendix.

OFFICE OF INSPECTOR GENERAL RESPONSE

As requested by the Medicaid agency, we delayed issuance of our report. To date, however, neither DJJ nor the Medicaid agency has provided support for the Medicaid agency’s assertion that juveniles voluntarily residing at the Regional Youth Detention Centers were included in our overpayment calculation. In the absence of additional evidence, the comments provided by the Medicaid agency did not cause us to change our findings or recommendations.

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INTRODUCTION

BACKGROUND

Title XIX of the Social Security Act (the Act) authorizes Federal grants to States for Medicaid programs that provide medical assistance to low-income individuals and persons with disabilities. The Centers for Medicare & Medicaid Services (CMS) administers the Medicaid program for the Federal Government. Each State administers its Medicaid program in accordance with a CMS-approved State plan. While the State has considerable flexibility in designing its State plan and operating its Medicaid program, it must comply with applicable Federal requirements.

During a prior review of Medicaid targeted case management services in Georgia (A-04-06-00022), the Office of the Inspector General found that the Georgia Department of Community Health (the Medicaid agency) inappropriately claimed Federal financial participation (FFP) for targeted case management services to juveniles involuntarily residing in institutions controlled by the Georgia Department of Juvenile Justice (DJJ). These individuals (juvenile inmates of public institutions) were awaiting criminal proceedings, penal dispositions, or other involuntary detention determinations. CMS considers such individuals to be “inmates of public institutions,” and non-inpatient medical services to them are ineligible for FFP pursuant to section 1905(a)(A) of the Act.

Medicaid Medical Assistance Programs

Section 1905(a) of the Act offers grants to State Medicaid agencies for medical assistance to provide medical services to Medicaid beneficiaries. However, subparagraph (A) of section 1905(a) of the Act states that medical assistance does not include “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)”

Georgia Department of Community Health

The Medicaid agency administers the Medicaid program in Georgia. The Medicaid agency makes payments to Medicaid providers for medical services¹ and claims the payments as costs for FFP on its “Quarterly Medicaid Statement of Expenditures for the Medical Assistance Program” (Form CMS-64). The Medicaid agency works together with DJJ to provide Medicaid reimbursable medical services to eligible juveniles.

Georgia Department of Juvenile Justice

DJJ is authorized to provide probation and parole services to any juvenile committed to DJJ by the juvenile court system. The juvenile can receive these services at home, in a foster home, in a group home, in a Regional Youth Detention Center (RYDC), or in a Youth Development Center (YDC). The RYDCs are temporary, secure facilities for juveniles charged with crimes who, after being found guilty, are awaiting criminal proceedings, penal dispositions, or other

¹Medical services include inpatient hospital services and non-inpatient services.

involuntary detainment determinations. The YDCs are long-term, secure facilities for youths found guilty of more serious crimes. All juveniles residing in RYDCs or YDCs are involuntarily incarcerated.

DJJ tracks all juveniles in its custody using the Juvenile Tracking System (JTS), which is an electronic system used to maintain a cumulative record of each juvenile's history that includes placement information, caseworker information, offenses per admission, and housing movements per placement. Placement information includes placement date, release date, reason for movement, placement site, and status. A JTS placement status of "Institution" identifies juveniles residing in RYDCs or YDCs controlled by DJJ—juvenile inmates of public institutions.²

DJJ is responsible for updating the Medicaid agency's Medicaid eligibility system to accurately reflect placements of juveniles in its custody, including placements that are not reimbursable by Medicaid. Once a juvenile enters a public RYDC or YDC, DJJ inputs the Medicaid eligibility status code "517" into the Medicaid eligibility system. This eligibility status code identifies the juvenile as an inmate of a public institution, and the Medicaid agency relies on this code to prevent Medicaid from making payments for non-inpatient medical services provided to the juvenile.

OBJECTIVE, SCOPE, AND METHODOLOGY

Objective

Our objective was to determine whether the Medicaid agency claimed FFP for certain non-inpatient medical services provided to juvenile inmates of public institutions.

Scope

We reviewed paid Medicaid claims totaling \$3,769,787 for non-inpatient medical services provided to juvenile inmates of public institutions from October 1, 2002, through September 30, 2004. We relied on Medicaid payment information provided by the Georgia Department of Audits and Accounts (DAA). We did not test the accuracy of this information; however, we eliminated payments for certain services as described in the Methodology section based on the scope of this review.

We limited consideration of the Medicaid agency and DJJ internal control structures to those controls concerning claims processing because the objective of our review did not require an understanding or assessment of the complete internal control structure. Further, we concluded that our review of the Medicaid agency's internal control structure could be conducted more efficiently by substantive testing.

²The JTS placement status of "Community" identifies juveniles residing at home and in foster care. The JTS status of "Residential" identifies juveniles residing in nonpublic group homes and nonpublic institutions. Juveniles awaiting other living arrangements appropriate to the individual's needs are identified in JTS by either "Community" or "Residential" status.

We performed the fieldwork from October 2006 through May 2008 at the Medicaid agency, DJJ headquarters, and DAA in Atlanta, Georgia.

Methodology

To accomplish our objective, we:

- reviewed Federal laws, regulations, and other requirements regarding Medicaid reimbursement for medical services to inmates of a public institution;
- interviewed Medicaid agency, DJJ, and DAA officials;
- obtained a listing of all RYDCs and YDCs from DJJ and identified the public institutions (i.e., those that were the responsibility of DJJ or that were under DJJ's administrative control);
- obtained from the DJJ JTS³ a list of all juvenile inmates of these public institutions from October 1, 2002, through September 30, 2004;
- tested that list for completeness and accuracy;
- obtained from the DAA an extract from the Medicaid agency's third-party billing system identifying unduplicated payments totaling \$6,453,241 for all medical services provided to juvenile inmates of public institutions from October 1, 2002, through September 30, 2004;
- eliminated from the DAA extract:
 - \$1,836,115 related to Medicaid targeted case management services provided to juvenile inmates of public institutions that we previously reviewed (A-04-06-00022),
 - \$189,497 of payments for non-inpatient medical services provided to juvenile inmates as they exited public institutions,
 - \$4,598 related to non-inpatient medical services provided outside of our audit period to juvenile inmates of public institutions,
 - \$381,386 related to non-inpatient medical services provided to juvenile inmates of nonpublic institutions,

³Based on our testing of the JTS performed during the prior review of Medicaid targeted case management services in Georgia (A-04-06-00022), we accepted the data in this system as accurate.

- \$271,858 related to inpatient medical services provided to juvenile inmates of public and nonpublic institutions;⁴ and
- reconciled the remaining \$3,769,787 in payments for all non-inpatient medical services provided to juvenile inmates of public institutions to the costs claimed by the Medicaid agency on the Form CMS-64.

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

For Federal fiscal years (FY) 2003 and 2004, the Medicaid agency claimed \$3,769,787 (\$2,325,742 Federal share) in costs relating to non-inpatient medical services provided to juvenile inmates of public institutions. The Medicaid agency inappropriately claimed these costs because neither DJJ nor the Medicaid agency had adequate controls to ensure that services to inmates of public institutions were excluded from FFP, in compliance with Federal requirements.

PROGRAM REQUIREMENTS

Federal Medicaid requirements are contained in Federal law and CMS policy notices to State Medicaid directors.

Federal Law

Section 1905(a) of the Act offers grants to State Medicaid agencies for medical assistance to provide medical services to Medicaid beneficiaries. The term “medical assistance” is defined as payment for part or all of the cost of certain types of services and care listed under section 1905(a) of the Act. Medical services include inpatient hospital services, non-inpatient services, and laboratory and x-ray services, in addition to several other categories of services. Non-inpatient services include but are not limited to outpatient hospital services; rural health clinic services; physicians’ services; medical and surgical services furnished by a dentist; medical care or any type of remedial care furnished by a licensed practitioner; and prescription drugs, dentures, prosthetic devices, and eyeglasses prescribed by a physician. However, subparagraph (A) following section 1905(a) of the Act states that medical assistance does not include “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)” Pursuant to

⁴Because these inpatient services were not provided at a prison hospital or dispensary, they were eligible for FFP. Accordingly, we excluded them from our review.

42 CFR § 435.1008(a)(1),⁵ FFP is not available for services to “Individuals who are inmates of public institutions”⁶

Federal regulations (42 CFR § 435.1009)⁷ define an inmate of a public institution as “a person who is living in a public institution.” They further state that “public institution” means “an institution that is the responsibility of a governmental unit or over which the governmental unit exercises administrative control.”

Centers for Medicare & Medicaid Services Medicaid Coverage Policy Notice

On March 6, 1998, CMS issued a Program Issuance Transmittal Notice (Medicaid policy notice) to all States in Region IV, which included Georgia, to clarify Medicaid coverage policy for inmates of a public institution. This Medicaid policy notice replicates the statement of Medicaid coverage policy for inmates of a public institution issued by CMS to all Associate Regional Administrators on December 12, 1997.

The Medicaid policy notice states that, for purposes of excluding FFP for services provided to inmates of a public institution, there is no difference in application of the policy to juveniles or adults. Also, CMS’s policy clarifies that for FFP to be prohibited, two criteria must be satisfied: (1) the individual must be an inmate and (2) the inmate must reside in a public institution. To be classified as an inmate, an individual must be serving time for a criminal offense or confined involuntarily in State or Federal prisons, jails, detention facilities, or other penal facilities. It further notes that the exception to inmate status in which “other living arrangements appropriate to the individual’s needs are being made” does not apply when an individual is involuntarily residing in a public institution awaiting criminal proceedings, penal dispositions, or other involuntary detainment determinations. A facility is deemed to be a public institution when it is under the responsibility of the governmental unit or over which a governmental unit exercises administrative control.

An exception to the prohibition of FFP, as clarified by CMS in the Medicaid policy, is available when an inmate is admitted as an inpatient in a hospital, nursing facility, juvenile psychiatric facility, or intermediate care facility for covered Medicaid services. However, this exception does not apply for services provided at such facilities when provided to the inmate on an outpatient basis. Furthermore, CMS distinguishes prison hospitals or dispensaries from inpatient institutions and concludes that FFP is not available for medical services provided to inmates in such settings as the inmate would not be considered a patient in a medical institution.

⁵This citation is applicable for our audit period, October 1, 2002, through September 30, 2004. On October 1, 2007, this citation was moved to 42 CFR § 435.1009(a)(1).

⁶The final rule (50 Fed. Reg. 13196 (April 3, 1985)) implementing this regulation effective May 3, 1985, states: “Under the policy set forth in this rule, FFP will not be available for Medicaid services provided from the date of admission until the date of discharge.”

⁷This citation is applicable for our audit period, October 1, 2002, through September 30, 2004. On October 1, 2007, this citation was moved to 42 CFR § 435.1010.

UNALLOWABLE MEDICAL ASSISTANCE COSTS

Unallowable Costs for Non-Inpatient Services

For Federal FYs 2003 and 2004, the Medicaid agency claimed \$3,769,787 (\$2,325,742 Federal share) in costs relating to non-inpatient medical services provided to juvenile inmates of a public institution. The amount claimed included payments for non-inpatient services such as outpatient hospital services; rural health clinic services; physicians' services; medical and surgical services furnished by a dentist; medical care or any type of remedial care furnished by a licensed practitioner; and prescription drugs, dentures, prosthetic devices, and eyeglasses prescribed by a physician.

Some examples of non-inpatient medical services provided to juvenile inmates of a public institution were:

- laboratory services on May 27, June 2, and June 14, 2004, and physician services on June 17, 2004, provided to an individual incarcerated in a public YDC from October 24, 2002, through July 5, 2004;
- psychological services on July 16, 2004, provided to an individual incarcerated in a public YDC from February 17 through September 30, 2004; and
- vision services on July 6, 2004, provided to an individual incarcerated in a public RYDC from November 29, 2003, through July 20, 2004.

Inadequate Controls

The Medicaid agency inappropriately claimed unallowable costs for non-inpatient services because neither DJJ nor the Medicaid agency had adequate controls to ensure that, pursuant to Federal requirements, services to inmates of public institutions were excluded from FFP. The Medicaid agency relied on Medicaid eligibility status codes provided by DJJ to identify placements of juveniles in public RYDCs and YDCs as nonreimbursable placements for Medicaid. However, in many instances, DJJ did not update Medicaid eligibility status codes in Medicaid's eligibility system to accurately reflect juvenile placements in public RYDCs or YDCs. Furthermore, the Medicaid agency had no procedures in place to verify the accuracy of the Medicaid eligibility status codes provided by DJJ.

Overpayments Related to Unallowable Costs

As a result of inadequate controls, the Medicaid agency erroneously made Medicaid payments for non-inpatient medical services provided to juvenile inmates of a public institution and claimed these payments as costs for FFP on its Form CMS-64. Based on the results of our review, CMS overpaid the Medicaid agency \$2,325,742 (Federal share) for these ineligible services.

RECOMMENDATIONS

We recommend that the Medicaid agency:

- refund to the Federal Government the \$2,325,742 overpayment for Federal FYs 2003 and 2004,
- examine claims made during the period subsequent to our audit for compliance with these requirements and refund any overpayments identified, and
- establish monitoring procedures to provide reasonable assurance that DJJ has adequate controls to ensure the accuracy of Medicaid eligibility status codes needed to identify juvenile inmates of a public institution.

MEDICAID AGENCY COMMENTS

In written comments to the draft report, the Medicaid agency requested “the opportunity to review each claim considered ‘erroneously reimbursed.’” It requested this opportunity for two reasons: (1) some of the juveniles included in our calculation may have been voluntarily residing in RYDCs while “awaiting community-based placement” and (2) some of the billed claims may have been “provided on the day of discharge from the RYDC.” The Medicaid agency also requested we delay the release of our report until April 6, 2009, and reconsider the overpayment should its review of DJJ records find that youth were placed voluntarily while awaiting other placement. The Medicaid agency’s comments are included in their entirety as the Appendix.

OFFICE OF INSPECTOR GENERAL RESPONSE

We provided the Medicaid agency with information on the claims we considered to be errors, and, as requested by the Medicaid agency, we delayed issuance of our report. To date, however, neither DJJ nor the Medicaid agency has provided support for the Medicaid agency’s assertion that juveniles voluntarily residing at the RYDCs were included in our overpayment calculation. In addition, as we mentioned in the Methodology section, we excluded from our review all payments for non-inpatient medical services provided to juvenile inmates as they exited public institutions. In the absence of additional evidence, the comments provided by the Medicaid agency did not cause us to change our findings or recommendations.

APPENDIX

GEORGIA DEPARTMENT OF
COMMUNITY HEALTH

Rhonda M. Medows, MD, Commissioner

Sonny Perdue, Governor

2 Peachtree Street, NW
Atlanta, GA 30303-3159
www.dch.georgia.gov

February 9, 2009

Mr. Peter J. Barbera, Regional Inspector General
For Audit Services
Office of the Inspector General
Office of Audit Services Region IV
61 Forsyth Street, S.W., Suite 3T41
Atlanta, GA 30303

Re: Report Number A-04-06-00026

Dear Mr. Barbera:

Georgia Department of Community Health (DCH) staff reviewed the draft report *Review of Medicaid Services to Incarcerated Juveniles in the State of Georgia for Federal Fiscal Years 2003 and 2004*. In response to the report, the State would like to submit the following comments for consideration:

- The *Background* statement of the report, in its description of the Georgia Department of Juvenile Justice, describes Regional Youth Detention Centers (RYDCs) as “temporary, secure facilities for juveniles charged with crimes who, after being found guilty, are awaiting criminal proceedings, penal dispositions, or other involuntary detention determinations.” This statement does not describe a secondary use for the RYDCs in Georgia for a group of youth who are awaiting community-based placement. Georgia RYDCs house youth who have been court ordered, but are secondarily used as temporary placement while children await foster care or other residential placement. In the second circumstance, those children have not been placed under a court order and should not be considered incarcerated.
- A review of the individual Medicaid payments for outpatient and pharmacy services that the Report describes as “inappropriately claimed” reveals that over half of the Medicaid claims were made for services provided to children and youth served by the RYDCs. Additionally, through an internal review sampling the population surveyed by HHS, the State finds that some of the billed claims were provided on the day of discharge from the RYDC.
- HCFA Program Issuance Transmittal Notice MCD-05-98 dated March 6, 1998 defines *inmate* as follows:

An individual is an inmate when serving time for a criminal offense or confined involuntarily in State or Federal prisons, jails, detention facilities, or other penal facilities.

Mr. Peter J. Barbera, Regional Inspector General

Page 2

February 9, 2009

- Georgia's system of Juvenile Justice utilizes Regional Youth Detention Centers also for youth not adjudicated, thus, not requiring secure facilities for incarceration. The same document continues:

An individual who is voluntarily residing in a public institution would not be considered an inmate, and the statutory prohibition of FFP would not apply.

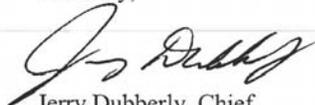
With regard to the Report Recommendations, the Georgia DCH requests the opportunity to review each claim considered "erroneously reimbursed" for reconsideration of those outpatient Medicaid costs associated with youth housed in RYDCs under no court order, rather awaiting community placement. Similarly, refund recommendations for subsequent years would be based on those outpatient medical costs associated with incarcerated youth only.

To avoid such claims submission in the future, the DCH and DJJ will collaborate in a monitoring process to include the following compliance checks:

1. The DCH and DJJ will issue policy statements to all Medicaid providers as well as administrative staff of public institutions outlining the exclusion of Medicaid funds for outpatient services to inmates of public institutions pursuant to Section 1905(a), subparagraph (A) of the Social Security Act.
2. DJJ will provide quarterly electronic reports of all youth placed in RYDCs and RYDCs through court order. DCH staff will apply the DJJ member data against claims data to track ineligible payments and thus avoid future submission for FFP.

The Department requests delay of the release of this report until April 6, 2009 to allow for thorough review of Juvenile Justice records for claims paid on behalf of youth residing in RYDCs. Should this review find that youth were placed voluntarily while awaiting other placement, the Department requests reconsideration of the reimbursement amount requested?

Sincerely,



Jerry Dubberly, Chief
Medical Assistance Plans

JD/ci

cc: Carie Summers
Rob Findlayson
Jeff Minor
Sandra Deaton
Catherine Ivy
Maya Carter