

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**WISCONSIN RECEIVED SOME
UNALLOWABLE BONUS PAYMENTS**

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**Lori Pilcher
Regional Inspector General**

**March 2015
A-04-13-08021**

Office of Inspector General

<http://oig.hhs.gov>

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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

Wisconsin received \$197,702 in unallowable performance bonus payments under the Children's Health Insurance Program Reauthorization Act for fiscal years 2010 through 2012.

WHY WE DID THIS REVIEW

The Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA) directly affects both the Children's Health Insurance Program and Medicaid. Under CHIPRA, Congress appropriated \$3.225 billion for qualifying States to receive performance bonus payments (bonus payments) for Federal fiscal years (FYs) 2009 through 2013 to offset the costs of increased enrollment of children in Medicaid. In an audit of CHIPRA bonus payments in another State (A-04-12-08014), we found millions of dollars in unallowable bonus payments; therefore, we identified CHIPRA bonus payments as a high-risk area.

We reviewed the bonus payments that Wisconsin received for FYs 2010 through 2012 (audit period) because preliminary analysis indicated inconsistencies between enrollment used to calculate the State's bonus payments and the enrollment reflected in the Medicaid Statistical Information System maintained by the Centers for Medicare & Medicaid Services (CMS). Wisconsin received more than \$73.8 million in bonus payments for the FYs we reviewed.

Our objective was to determine whether the bonus payments that Wisconsin received were allowable in accordance with Federal requirements.

BACKGROUND

CMS administers the Medicaid program at the Federal level and is the agency responsible for determining whether a State meets the requirements to receive a bonus payment and, if so, what the amount of the bonus payment should be. CMS makes its determinations, in part, on the basis of Medicaid enrollment information that the States provided in their requests for bonus payments. The Wisconsin Department of Health Services (State agency) administers Wisconsin's Medicaid program and is the State agency that requested the bonus payments Wisconsin received for the audit period.

A State is eligible for a bonus payment if, among other requirements, it increases its current enrollment of qualifying children above the baseline enrollment of qualifying children for a given year as specified in CMS guidance.

WHAT WE FOUND

Some of the bonus payments that Wisconsin received for the audit period were not allowable in accordance with Federal requirements. Although most of the information used to determine Wisconsin's bonus payments was accurate, the baseline enrollment was understated and not calculated in accordance with Federal requirements. This understatement occurred because the State agency provided CMS with information containing a mathematical error when it requested

a reduction to the baseline enrollment used in Wisconsin's FY 2010 bonus payment calculation. The State agency requested this adjustment to reflect Medicaid and CHIP eligibility changes that the State implemented in FY 2008, and CMS approved its request. Because of the mathematical error included in the adjustment request, Wisconsin's baseline enrollment for FYs 2010 through 2012 was no longer in accordance with Federal requirements. As a result of the understated baseline enrollment, CMS overpaid Wisconsin \$197,702 in bonus payments for the audit period.

WHAT WE RECOMMEND

We recommend that the State agency:

- refund \$197,702 to the Federal Government for overpayments received in FYs 2010 through 2012 and
- refund an additional \$64,374 for overpayments that CMS paid it for FY 2013 (after our audit period), assuming that it had not corrected the mathematical error in the baseline enrollment.

STATE AGENCY COMMENTS

In written comments on our draft report, the State agency acknowledged that the information that it sent to CMS requesting the baseline enrollment adjustment contained a mathematical error. However, the State agency disagreed strongly with our initial findings that the baseline adjustment was improper in its entirety and requested that we reconsider our recommendation for a significantly higher refund of overpayment amounts. State agency officials said that the initial baseline enrollment calculation did not account for the statutory definition of qualifying children. Accordingly, the State agency said that it requested an adjustment to the baseline to correctly count those children who met the Medicaid eligibility criteria that Wisconsin had in place as of July 1, 2008, and emphasized that CMS had approved this request.

OFFICE OF INSPECTOR GENERAL RESPONSE

We have revised our findings and recommendations on the basis of the State agency's comments and additional discussions with CMS officials. CMS officials agreed that an adjustment to Wisconsin's baseline enrollment was necessary to correctly count those children who met the Medicaid eligibility criteria that Wisconsin had in place as of July 1, 2008. Additionally, CMS officials said that the methodology followed to adjust the baseline calculation was reasonable. Our findings and recommendations now reflect the overpayment that occurred solely due to the mathematical error in the information that the State agency provided to CMS when it requested a reduction to the baseline enrollment used in Wisconsin's bonus payment calculations.

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INTRODUCTION

WHY WE DID THIS REVIEW

The Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA) directly affects both the Children's Health Insurance Program (CHIP) and Medicaid. Under CHIPRA, Congress appropriated \$3.225 billion for qualifying States to receive performance bonus payments (bonus payments) for Federal fiscal years (FYs) 2009 through 2013 to offset the costs of increased enrollment of children in Medicaid. In an audit of CHIPRA bonus payments in another State,¹ we found millions of dollars in unallowable bonus payments; therefore, we identified CHIPRA bonus payments as a high-risk area.

We reviewed the bonus payments that Wisconsin received for FYs 2010 through 2012 (audit period) because preliminary analysis indicated inconsistencies between enrollment used to calculate the State's bonus payments and the enrollment reflected in the Medicaid Statistical Information System (MSIS) maintained by the Centers for Medicare & Medicaid Services (CMS). Wisconsin received more than \$73.8 million in CHIPRA bonus payments for the FYs that we reviewed.

OBJECTIVE

Our objective was to determine whether the bonus payments that Wisconsin received were allowable in accordance with Federal requirements.

BACKGROUND

The Medicaid Program: How It Is Administered

The Medicaid program provides medical assistance to low-income individuals and individuals with disabilities. The Federal and State Governments jointly fund and administer the Medicaid program. 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. CMS administers the Medicaid program at the Federal level. The Wisconsin Department of Health Services (State agency) administers Wisconsin's Medicaid program.

Bonus Payments

CHIPRA, P.L. No. 111-3, directly affects CHIP under Title XXI of the Social Security Act (the Act) and Medicaid under Title XIX of the Act. Under CHIPRA, qualifying States may receive bonus payments for FYs 2009 through 2013 to offset the costs of increased enrollment of children in Medicaid. A State is eligible for a bonus payment if it increased its current enrollment of qualifying children (current enrollment) above the baseline enrollment of

¹ *Alabama Received Millions in Unallowable Performance Bonus Payments Under the Children's Health Insurance Program Reauthorization Act* (A-04-12-08014, issued August 27, 2013).

qualifying children (baseline enrollment) for a given year as specified in CMS guidance.² A State must also have implemented at least five of the Medicaid enrollment and retention provisions specified in CHIPRA.

As referenced in statute,³ baseline enrollment refers to the monthly average unduplicated number of “qualifying children” enrolled in Medicaid. For 2009, the baseline enrollment “must be established using such data for FY 2007” (emphasis added).⁴ For FYs after 2009, the baseline enrollment for a State is determined by the application of a child population growth factor to the previous year’s baseline enrollment for that State. CMS provided CHIPRA performance bonus payments guidance to the States in its State Health Official letter dated December 15, 2009 (SHO #09-015).

For CHIPRA bonus payments, CMS is responsible for calculating the baseline numbers for all of the States; determining whether a State meets the requirements to receive a bonus payment; and, if so, calculating the amount of the bonus payment. CMS makes its determinations, in part, on the basis of Medicaid enrollment information that the State provided in its requests for bonus payments. The State agency requested the bonus payments that Wisconsin received for the audit period.

HOW WE CONDUCTED THIS REVIEW

We reviewed the bonus payments that Wisconsin received for FYs 2010 through 2012, totaling \$23,432,822, \$33,261,014, and \$17,128,227, respectively. Our review focused on verifying the accuracy of enrollment information used in the bonus payment calculations and ensuring that the information used complied with Federal requirements. We neither assessed the State agency’s internal control structure beyond what was necessary to meet our objective nor reviewed the State agency’s determinations of Medicaid eligibility. Also, we did not review whether the State agency successfully implemented at least five of the Medicaid enrollment and retention provisions because we determined that there was a low risk of noncompliance.

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

Appendix A contains the details of our scope and methodology, and Appendix B contains the Federal requirements related to bonus payments.

² Bonus payments are two tiered and are based on the level of the State’s enrollment increase above the baseline enrollment. The first-tier bonus payment is available for a State that increases its current enrollment up to 10 percent above the baseline enrollment in a year. A second-tier bonus payment is available for a State that increases its current enrollment by more than 10 percent above the baseline enrollment in a year.

³ Section 2105(a)(3)(C)(iii) of the Act.

⁴ CMS, SHO Letter #09-015, CHIPRA #10.

FINDING

Some of the bonus payments that Wisconsin received for the audit period were not allowable in accordance with Federal requirements. Although most of the information used to determine Wisconsin's bonus payments was accurate, the baseline enrollment was understated and not calculated in accordance with Federal requirements. This understatement occurred because the State agency provided CMS with information containing a mathematical error when it requested a reduction to the baseline enrollment used in Wisconsin's FY 2010 bonus payment calculation. The State agency requested this adjustment to reflect Medicaid and CHIP eligibility changes that the State implemented in FY 2008, and CMS approved its request. Because of the mathematical error included in the adjustment request, Wisconsin's baseline enrollment for FYs 2010 through 2012 was no longer in accordance with Federal requirements. As a result of the understated baseline enrollment, CMS overpaid Wisconsin \$197,702 in bonus payments for the audit period.

WISCONSIN'S BASELINE ENROLLMENT WAS NOT CALCULATED IN ACCORDANCE WITH FEDERAL STATUTE

Section 2105(a)(C)(iii)(I) of the Act states that baseline enrollment must be established using data for FY 2007. CMS initially used FY 2007 data and calculated that Wisconsin's FY 2010 baseline enrollment was 390,230. However, the State agency requested that CMS reduce the FY 2010 baseline enrollment because Wisconsin's Medicaid program had undergone significant eligibility changes in FY 2008. The State agency contended that, because of these changes, it moved to CHIP 19,706 qualifying children who were enrolled in its Medicaid program, and the State's FY 2010 baseline enrollment should be reduced accordingly.

Using the State agency's information, CMS recalculated Wisconsin's baseline enrollment and determined that Wisconsin's FY 2010 baseline enrollment was 368,429. Although CMS approved the State agency's request for an adjustment to Wisconsin's baseline enrollment, the information the State agency provided CMS contained a mathematical error. The figures contained in the provided information totaled 19,588 children, rather than the 19,706 reported, which resulted in an understated baseline enrollment calculation for FYs 2010 through 2012, as shown in Table 1.

Table 1: Wisconsin Baseline Enrollment for Bonus Payment Calculations

Baseline Enrollment	FY 2010	FY 2011	FY 2012⁵
Correct number	368,560	379,424	389,936
Number used for bonus	368,429	379,289	389,798
Understated Enrollment	131	135	138

Appendix C shows a comparison of CMS's baseline with our baseline enrollment calculations.

⁵ Assuming no changes were made to the baseline enrollment numbers subsequent to our audit period, we calculate that the baseline enrollment used for the FY 2013 bonus payment was understated by 141.

The understatement of the baseline enrollment caused CMS to calculate bonus payments for the audit period that were higher than allowable. Of the \$73,822,063 in bonus payments that Wisconsin received for FYs 2010 through 2012, \$197,702 was not allowable (Table 2).

Table 2: Wisconsin Bonus Payment Calculations Using Statutory Baseline

	FY 2010	FY 2011	FY 2012⁶	Total
Bonus payment received	\$23,432,822	\$33,261,014	\$17,128,227	\$73,822,063
Bonus payment calculated using statutory baseline ⁷	23,375,664	33,181,225	17,067,472	73,624,361
Excess Bonus Payment	\$57,158	\$79,789	\$60,755	\$197,702

RECOMMENDATIONS

We recommend that the State agency:

- refund \$197,702 to the Federal Government for overpayments received in FYs 2010 through 2012 and
- refund an additional \$64,374 for overpayments that CMS paid it for FY 2013 (after our audit period), assuming that it had not corrected the mathematical error in the baseline enrollment.

STATE AGENCY COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE

STATE AGENCY COMMENTS

In written comments on our draft report, the State agency acknowledged that the information that it sent to CMS requesting the baseline enrollment adjustment contained a mathematical error. However, the State agency disagreed strongly with our initial findings that the baseline adjustment was improper in its entirety and requested that we reconsider our recommendation for a significantly higher refund of overpayment amounts.

State agency officials said that the initial baseline enrollment calculation did not account for the statutory definition of qualifying children. Accordingly, the State agency said that it requested an adjustment to the baseline to correctly count those children who met the Medicaid eligibility criteria that Wisconsin had in place as of July 1, 2008, and emphasized that CMS had approved this request.

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

⁶ Assuming that the State agency made no changes to the baseline enrollment numbers after our audit period, we calculate that Wisconsin's FY 2013 bonus payment was overstated by \$64,374.

⁷ Section 2105(a)(3)(c)(iii) of the Act.

OFFICE OF INSPECTOR GENERAL RESPONSE

We have revised our findings and recommendations on the basis of the State agency's comments and additional discussions with CMS officials. CMS officials agreed that an adjustment to Wisconsin's baseline enrollment was necessary to correctly count those children who met the Medicaid eligibility criteria that Wisconsin had in place as of July 1, 2008. Additionally, CMS officials said that the methodology followed to adjust the baseline calculation was reasonable. Our findings and recommendations now reflect the overpayment that occurred solely due to the mathematical error in the information that the State agency provided to CMS when it requested a reduction to the baseline enrollment used in Wisconsin's bonus payment calculations.

APPENDIX A: AUDIT SCOPE AND METHODOLOGY

SCOPE

We reviewed the bonus payments that Wisconsin received for FYs 2010, 2011, and 2012, totaling \$23,432,822, \$33,261,014, and \$17,128,227, respectively. Our review focused on verifying the accuracy of enrollment information used in the bonus payment calculations and ensuring that the information used complied with Federal requirements. We neither assessed the State agency's internal control structure beyond what was necessary to meet our objective nor reviewed the State agency's determinations of Medicaid eligibility. Also, we did not review whether the State agency successfully implemented at least five of the Medicaid enrollment and retention provisions because we determined that there was a low risk of noncompliance.

We performed our fieldwork at the State agency offices in Madison, Wisconsin, and at CMS offices in Baltimore, Maryland, from December 2012 through October 2013.

METHODOLOGY

To accomplish our objective, we:

- reviewed applicable Federal requirements;
- met with CMS program management officials to discuss:
 - Medicaid enrollment and retention provisions for bonus payments and
 - program oversight;
- met with CMS financial management officials to obtain an understanding of the process that States should follow when requesting bonus payments;
- reviewed CMS's detailed calculations⁸ of Wisconsin's bonus payments for FYs 2010, 2011, and 2012;
- reviewed supporting documentation for all data elements used in Wisconsin's bonus payment calculations, including baseline enrollment and projected per capita State Medicaid expenditures;
- reviewed CMS's oversight, validation, and approval processes for bonus payments;
- conducted a risk assessment of the State agency's noncompliance with Federal requirements;

⁸ Appendix II of CMS, SHO Letter #09-015, CHIPRA #10, describes the data elements, processes, and methodologies for calculating the bonus payments.

- met with State agency officials to:
 - discuss the State agency's requests for CHIPRA bonus payments,
 - obtain correspondence between the State agency and CMS, and
 - understand the State agency's methodology for determining the baseline and current enrollment it reported in its requests for bonus payments;
- analyzed the State agency's documentation supporting its request to modify the baseline enrollment numbers on which its bonus payments would be based;
- analyzed the State agency's documentation supporting its requests for bonus payments;
- reviewed State Medicaid enrollment system data;
- reviewed Wisconsin's enrollment and expenditure data from the CMS Medicaid Statistical Information System State Summary Datamart;
- calculated Wisconsin's bonus payments using baseline enrollment numbers consistent with the Act's section 2105(a)(3)(C)(iii) requirements;
- recalculated Wisconsin's bonus payments using correct, verified data; and
- discussed the results with State agency officials.

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

APPENDIX B: FEDERAL REQUIREMENTS RELATED TO BONUS PAYMENTS

PURPOSE AND CALCULATION METHODOLOGY

Section 2105(a)(3) of the Act states that performance bonus payments are intended to offset additional Medicaid and CHIP child enrollment costs resulting from enrollment and retention efforts. The payments are made to a State for a FY as a single payment not later than the last day of the first calendar quarter of the following FY.⁹ Additional guidance provided by CMS¹⁰ requires that payments to qualifying States be made by December 31 of the calendar year (CY) following the end of the FY for which the criteria were implemented. The bonus payments are provided to a State through a grant award.

Section 2105(a)(3)(B) of the Act requires that the bonus payment amount available to a State for any FY be equal to the sum of the following amounts:

- (i) First tier above baseline Medicaid enrollees. — An amount equal to the number of first tier above baseline child enrollees (as determined under subparagraph (C)(i)) under title XIX for the State and FY, multiplied by 15 percent of the projected per capita State Medicaid expenditures (as determined under subparagraph (D)) for the State and FY under title XIX.
- (ii) Second tier above baseline Medicaid enrollees. — An amount equal to the number of second tier above baseline child enrollees (as determined under subparagraph (C)(ii)) under title XIX for the State and FY, multiplied by 62.5 percent of the projected per capita State Medicaid expenditures (as determined under subparagraph (D)) for the State and FY under title XIX.

Section 2105(a)(3)(C)(iii)(I) of the Act states that the baseline number of child enrollees for FY 2009 “is equal to the monthly average unduplicated number of qualifying children enrolled in the State plan under title XIX during FY 2007 increased by the population growth for children in that State from 2007 to 2008 (as estimated by the Bureau of the Census) plus 4 percentage points, and further increased by the population growth for children in that State from 2008 to 2009 (as estimated by the Bureau of the Census) plus 4 percentage points”

For each of FYs 2010, 2011, and 2012, the baseline number of child enrollees “is equal to the baseline number of child enrollees for the State for the previous FY under title XIX, increased by the population growth for children in that State from the CY in which the respective FY begins to the succeeding CY (as estimated by the Bureau of the Census) plus 3.5 percentage points.”¹¹

⁹ Section 2105(a)(3)(A) of the Act.

¹⁰ CMS, SHO Letter #09-015, CHIPRA #10.

¹¹ Section 2105(a)(3)(C)(iii)(II) of the Act.

Section 2105(a)(3)(F)(i) of the Act defines “qualifying children” as “children who meet the eligibility criteria (including income, categorical eligibility, age, and immigration status criteria) in effect as of July 1, 2008, for enrollment under title XIX, taking into account criteria applied as of such date under title XIX pursuant to a waiver under section 1115.” A child who is “provided medical assistance during a presumptive eligibility period under section 1920A shall be considered to be a ‘qualifying child’ only if the child is determined to be eligible for medical assistance under title XIX.” The term “qualifying children” does not include children “for whom the State has made an election to provide medical assistance under paragraph (4) of section 1903(v) or any children enrolled on or after October 1, 2013.”¹²

Section 2105(a)(3)(D) of the Act defines projected per capita State Medicaid expenditures as:

... the average per capita expenditures (including both State and Federal financial participation) for children ... but not including such children eligible for assistance by virtue of the receipt of benefits under title XVI, for the most recent fiscal year for which actual data are available (as determined by the Secretary), increased (for each subsequent fiscal year up to and including the fiscal year involved) by the annual percentage increase in per capita amount of National Health Expenditures (as estimated by the Secretary) for the calendar year in which the respective subsequent fiscal year ends and multiplied by a State matching percentage ... for the fiscal year involved.

¹² Section 2105(a)(3)(F)(ii) and (iii) of the Act.

APPENDIX C: BASELINE ENROLLMENT CALCULATIONS

CMS CALCULATION OF WISCONSIN’S BASELINE ENROLLMENT FOR FISCAL YEARS 2010 THROUGH 2012

To determine Wisconsin’s baseline enrollment for FYs 2010 through 2012, CMS first calculated Wisconsin’s FY 2009 baseline enrollment by:

- obtaining Wisconsin’s FY 2007 “monthly average unduplicated number of qualifying children” from the MSIS,
- adjusting this number from 352,725 to 333,019 (a reduction of 19,706) in response to the State agency’s request,
- increasing this number by Wisconsin’s population growth for children from 2007 to 2008 (as estimated by the Bureau of the Census) plus 4 percentage points, and
- increasing the resulting number from the previous step by Wisconsin’s population growth for children from 2008 to 2009 (as estimated by the Bureau of the Census) plus 4 percentage points.

CMS then calculated Wisconsin’s baseline enrollment for each of the FYs 2010, 2011, and 2012 by increasing the baseline enrollment for the previous FY by Wisconsin’s population growth of children from the CY in which the respective FY begins to the succeeding CY (as estimated by the Bureau of the Census) plus 3.5 percentage points.

Appendix B contains the Federal requirements for calculating the baseline enrollment.

Wisconsin FY 2010 Baseline Enrollment Calculation

FY 2007	FY 2009		FY 2010	
A	B	C	D	E
Baseline Enrollment	Growth Factor 2007–2009	Baseline Enrollment (A x B)	Growth Factor	Baseline Enrollment (C x D)
333,019	1.073466	357,484	1.030615	368,429

Wisconsin FYs 2011 and 2012 Baseline Enrollment Calculations

FY 2010	FY 2011		FY 2012	
A	B	C	D	E
Baseline Enrollment	Growth Factor	Baseline Enrollment (A x B)	Growth Factor	Baseline Enrollment (C x D)
368,429	1.029476	379,289	1.027706	389,798

**OFFICE OF INSPECTOR GENERAL’S CALCULATION OF WISCONSIN’S
BASELINE ENROLLMENT FOR FISCAL YEARS 2010 THROUGH 2012**

To determine Wisconsin’s baseline enrollment for FYs 2010 through 2012, we first calculated Wisconsin’s FY 2009 baseline enrollment by:

- obtaining Wisconsin’s FY 2007 “monthly average unduplicated number of qualifying children” from the MSIS,
- adjusting this number from 352,725 to 333,137 (a reduction of 19,588), which is the correct amount that should have been included in the State agency’s request,
- increasing this number by Wisconsin’s population growth for children from 2007 to 2008 (as estimated by the Bureau of the Census)¹³ plus 4 percentage points, and
- increasing the resulting number from the previous step by Wisconsin’s population growth for children from 2008 to 2009 (as estimated by the Bureau of the Census) plus 4 percentage points.

We then calculated Wisconsin’s baseline enrollment for each of the FYs 2010, 2011, and 2012 by increasing the baseline enrollment for the previous FY by Wisconsin’s population growth of children from the CY in which the respective FY begins to the succeeding CY (as estimated by the Bureau of the Census) plus 3.5 percentage points.

Correct Wisconsin FY 2010 Baseline Enrollment Calculation

FY 2007	FY 2009		FY 2010	
A	B	C	D	E
Adjusted Baseline Enrollment	Growth Factor 2007–2009	Baseline Enrollment (A x B)	Growth Factor	Baseline Enrollment (C x D)
333,137	1.073466	357,611	1.030615	368,560

Correct Wisconsin FYs 2011 and 2012 Baseline Enrollment Calculations

FY 2010	FY 2011		FY 2012	
A	B	C	D	E
Baseline Enrollment	Growth Factor	Baseline Enrollment (A x B)	Growth Factor	Baseline Enrollment (C x D)
368,560	1.029476	379,424	1.027706	389,936

¹³ We used the same population estimates from the Census Bureau that CMS used in its calculations.

APPENDIX D: STATE AGENCY COMMENTS



DIVISION OF HEALTH CARE ACCESS AND ACCOUNTABILITY

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August 6, 2014

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RE: Report Number: A-04-13-08021

Dear Ms. Pilcher:

The Wisconsin Department of Health Services (DHS) welcomes the opportunity to comment on the recommendations contained in the draft report from the Office of Inspector General (OIG) entitled "Wisconsin Received Millions in Unallowable Performance Bonus Payments Under the Children's Health Insurance Program Reauthorization Act." DHS has several objections to the conclusions and content of the report.

First and foremost, Wisconsin's Performance Bonus Payments amounts were calculated and awarded by the Centers for Medicare and Medicaid Services (CMS) after a careful review of Wisconsin's baseline enrollment methodology and the actual enrollment data submitted for each award year. We had every reason to rely on the baseline calculation and it would be wholly unfair to require the State to absorb the impact of paying back millions of dollars based on a new interpretation of the federal statute. Moreover, it would call into question the extent to which the State can rely on federal funding awards in the future.

The Performance Bonus Payments were properly awarded to Wisconsin and recognize the State's significant investment in health coverage for children.

Wisconsin requested an adjustment to the initial FY 2007 enrollment number because the number was wrong. The enrollment derived from MSIS did not account for the statutory definition of qualifying children, and neither does your report. The law at section 2105(a)(3)(C)(iii) of the Social Security Act says the baseline number for bonuses was to be based on the "the monthly average unduplicated number of qualifying children enrolled in the State plan under title XIX during fiscal year 2007." "Qualifying children" is defined in § 2105(a)(3)(F) which states that for purposes of § 2105(a) it means, "children who meet the eligibility criteria (including income, categorical eligibility, age, and immigration status criteria) in effect as of July 1, 2008, for enrollment under title XIX, taking into account criteria applied as of such date under title XIX pursuant to a waiver under section 1115."

This clause clearly means that the children to be counted were those who met the Medicaid eligibility criteria that we had in place as of July 1, 2008. To apply the correct standard is precisely why Wisconsin requested and CMS agreed to adjust the baseline enrollment.

As the report mentioned briefly, Wisconsin made changes in its eligibility criteria as of February 1, 2008. Among the changes that we implemented was the elimination of most of the income disregards and an increase of the CHIP income standards. A change to whether you count an income disregard is for all intents and purposes the same thing as changing income standards. As we informed CMS, the loss of those disregards resulted in a relatively small number of children losing eligibility for Medicaid and instead becoming eligible for CHIP coverage or for our state-funded benefit. It would have been a very expensive and time-consuming endeavor to reprogram our computer system to redetermine eligibility for all of the children who received Medicaid in FFY 2007 against the eligibility rules in place on July 1, 2008. Instead, we proposed and CMS agreed to look at the results of what happened to the enrollment numbers between January and February of 2008 when we changed the eligibility rules for our Medicaid/CHIP program (called BadgerCare) and applied the new rules (now called BadgerCare Plus) to all of our families. We ran queries of our eligibility system for those months and identified children who were eligible for Medicaid in January under the 2007 eligibility rules who became eligible under CHIP or our State-funded health care program in February under the rules that were in effect in July 2008. CMS then adjusted the baseline with this corrected number.

Based on this we take great exception to the title of the report. The implication of the title is that Wisconsin contrived to obtain these contested millions in Performance Bonus awards. The only thing Wisconsin is responsible for is making a reasonable request based on application of the federal law and accepting the awards after CMS agreed with our interpretation. We also object to the OIG completely excluding from the report the details of the rationale that we presented to CMS and shared with OIG auditors. As mentioned above, the whole point of the adjustment of the baseline was to comply with the law's definition of "qualifying children" which refers to eligibility policies in effect in July 2008. Instead of addressing the issue, the report only says, "However, the State agency requested that CMS reduce the FY 2010 baseline enrollment because Wisconsin's Medicaid program had undergone significant eligibility changes in FY 2008."

You further claim the methodology used by this Department and CMS was flawed. Wisconsin objects and repeats that under the circumstances explained above it was a reasonable approach in arriving at the enrollment number. We do agree with one of the report's conclusions - there was a minor math error in the document that we sent to CMS to request the adjustment. However, there is no acknowledgement in the report that we provided CMS with the raw counts and that they also failed to double check the math and used the wrong total. We object to another representation in the report implying that the fault was totally the State's.

Office of Inspector General Note - We added the emphasis to the paragraph above.

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Lori S. Pilcher
August 6, 2014

In conclusion, Wisconsin objects to the findings of the report and to omitting a discussion of the State's and CMS's reasons to adjust the baseline enrollment. Rather the report summarily concludes that CMS had no authority for making the adjustment. We respectfully request that OIG reconsider their conclusions and not issue this report as currently drafted.

Sincerely,

Marlia Mattke
Deputy Division Administrator

cc: Kitty Rhoades, Secretary, Department of Health Services