



DEPARTMENT OF HEALTH AND HUMAN SERVICES
OFFICE OF AUDIT SERVICES
233 NORTH MICHIGAN AVENUE
CHICAGO, ILLINOIS 60601

REGION V
OFFICE OF
INSPECTOR GENERAL

November 18, 2005

Report Number: A-05-04-00078

Ms. Barbara Edwards
Medicaid Director, Ohio Health Plans
30 East Broad Street, 31st Floor
Columbus, Ohio 43215

Dear Ms. Edwards:

Enclosed are two copies of the U.S. Department of Health and Human Services (HHS), Office of Inspector General's final report entitled "Audit of Ohio's Medicaid Payments for Skilled Professional Medical Personnel for the Period October 1, 2002, Through September 30, 2003." A copy of this report will be forwarded to the action official noted below for his/her review and any action deemed necessary.

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

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To facilitate identification, please refer to report number A-05-04-00078 in all correspondence relating to this report.

Sincerely,

Paul Swanson
Regional Inspector General
for Audit Services

Enclosures - as stated

Direct Reply to HHS Action Official:

Associate Regional Administrator for Medicaid
Centers for Medicare & Medicaid Services, Region V
233 North Michigan Avenue, Suite 600
Chicago, Illinois 60601

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**AUDIT OF OHIO'S MEDICAID
PAYMENTS FOR SKILLED
PROFESSIONAL MEDICAL
PERSONNEL FOR THE PERIOD
OCTOBER 1, 2002 THROUGH
SEPTEMBER 30, 2003**



**Daniel R. Levinson
Inspector General**

**NOVEMBER 2005
A-05-04-00078**

Office of Inspector General

<http://oig.hhs.gov>

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OAS FINDINGS AND OPINIONS

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



EXECUTIVE SUMMARY

This report provides the results of our audit of enhanced rate claims for skilled professional medical personnel and their supporting staff. Our review determined whether the State agency's claims for skilled professional medical personnel were eligible for the 75-percent enhanced rate.

BACKGROUND

Title XIX of the Social Security Act authorizes the Federal Government to reimburse States for costs necessary to administer their Medicaid State plans. In general, the Federal Government reimburses, or matches, Medicaid administrative costs at a rate of 50 percent.

Federal regulations provide an enhanced Federal Medicaid matching rate of 75 percent for the compensation and training of skilled professional medical personnel and their supporting staff. Generally, for the enhanced rate to be available, skilled professional medical personnel must have completed a 2-year program leading to an academic degree or certificate in a medically related program and perform activities that require the use of their professional training and experience.

The regulations also require that a documented employer-employee relationship exist between the Medicaid agency and the skilled professional medical personnel. The Ohio Department of Job and Family Services (the State agency) employed 46 individuals and contracted for the services of 219 persons to provide skilled professional medical services. Pursuant to an opinion by the Ohio attorney general, the State agency considers certain private not-for-profit agencies to be public offices and the contracted staff of these agencies to be State employees. Based on that opinion, the Centers for Medicare & Medicaid Services (CMS) has allowed the enhanced rate for the contracted staff.

OBJECTIVE

The objective of the audit was to determine whether the State agency properly claimed Federal Medicaid funding at the enhanced rate for skilled professional medical personnel and their supporting staff for the period October 1, 2002, through September 30, 2003.

SUMMARY OF FINDINGS

The State agency improperly claimed enhanced reimbursement for skilled professional medical personnel costs and was overpaid \$120,464 in Federal funds. These improper costs included (1) salaries and fringe benefits for 22 personnel lacking professional education and training, (2) training and travel related to ineligible personnel, and (3) accounting costs not eligible for enhanced reimbursement. The State agency did not have the necessary procedures in place to prevent unallowable costs for skilled professional medical personnel from being claimed at the enhanced rate. Because of an accounting error in the State agency's second-quarter claim for

Federal reimbursement, the Federal share was overstated by an additional \$22,500. The total overpayments to the State agency for Federal fiscal year 2003 amounted to \$142,964.

The State agency also claimed salary and fringe benefits at the enhanced rate for 138 individuals whose allocation of skilled professional medical personnel costs was based on negotiated percentages from a 1996 CMS decision letter and not supported by current time studies, as required in its contractual agreement. We have set aside the enhanced Federal funding of \$893,281 for a review of these charges and a determination of the portion allocable to skilled professional medical personnel activities.

RECOMMENDATIONS

We recommend that the State agency:

- refund \$120,464 (the difference between the 50-percent and 75-percent reimbursement rates) to the Federal Government for Medicaid overpayments for skilled professional medical personnel,
- refund \$22,500 to the Federal Government for the accounting error included in the second-quarter reimbursement,
- work with Regional CMS officials to establish an appropriate portion of the \$893,281 in enhanced funding that is associated with skilled professional medical personnel activities,
- implement procedures to ensure that future claims for enhanced Federal reimbursement include only qualified costs for skilled professional medical personnel, and
- identify and refund the Federal share of Medicaid overpayments for skilled professional medical personnel improperly claimed after September 30, 2003.

In a written response, Ohio officials generally disagreed with the recommended refund of salary costs for contracted staff but agreed with the remaining findings and recommendations. Based on the comments, we revised our original recommendations and have now set aside previously questioned costs that were based on prior period salary and fringe benefit allocation rates for skilled professional medical personnel activities. Although case management and associated supervisory and support staff costs are not unallowable by definition, the State agency did not support the relationship of the allocated charges to allowable activities performed by contracted employees. Because the State agency is not appropriately supporting claimed salary costs with contractually required time studies, we set these costs aside for awarding agency adjudication.

The State agency's response is summarized in the body of the report and is included as an Appendix. Although the entire response will be provided to the CMS Action Official, the Appendix includes only the written response and the prior period CMS decision letter, dated November 20, 1996, which are applicable to our reported findings.

TABLE OF CONTENTS

	<u>Page</u>
INTRODUCTION	1
BACKGROUND	1
OBJECTIVE, SCOPE, AND METHODOLOGY	1
Objective	1
Scope.....	1
Methodology	2
FINDINGS AND RECOMMENDATIONS	2
FEDERAL REQUIREMENTS FOR SKILLED PROFESSIONAL MEDICAL PERSONNEL	3
COSTS IMPROPERLY CLAIMED AT THE ENHANCED RATE	4
Salary Compensation	5
Training and Travel.....	6
Accounting Costs	6
Federal Overpayments	7
Causes of Unallowable Claims for Enhanced Reimbursement	7
ACCOUNTING ERROR	7
RECOMMENDATIONS	8
STATE AGENCY COMMENTS AND OIG RESPONSE	8
APPENDIX	
State Agency Comments	

INTRODUCTION

BACKGROUND

Title XIX of the Social Security Act authorizes the Federal Government to reimburse States for costs necessary to administer their Medicaid State plans. In general, the Federal Government reimburses, or matches, Medicaid administrative costs at a rate of 50 percent.

Federal regulations (42 CFR § 432.50) provide an enhanced Federal Medicaid matching rate of 75 percent for the compensation and training of skilled professional medical personnel and their supporting staff. Generally, for the enhanced rate to be available, skilled professional medical personnel must have completed a 2-year program leading to an academic degree or certificate in a medically related program and perform activities that require the use of their professional training and experience.

The regulations also require that a documented employer-employee relationship exist between the Medicaid agency and the skilled professional medical personnel. The Ohio Department of Job and Family Services (the State agency) employed 46 individuals and contracted for the services of 219 persons to provide skilled professional medical services. The contracted staff were employed by administrative agencies that could be private not-for-profit entities. Pursuant to an opinion by the Ohio attorney general, the State agency considers certain private not-for-profit agencies to be public offices and the contracted staff of these agencies to be State employees. Based on that opinion, the Centers for Medicare & Medicaid Services (CMS) has allowed the enhanced rate for the contracted staff.

OBJECTIVE, SCOPE, AND METHODOLOGY

Objective

The objective of the audit was to determine whether the State agency properly claimed Federal Medicaid funding at the enhanced rate for skilled professional medical personnel and their supporting staff for the period October 1, 2002, through September 30, 2003.

Scope

We reviewed the State agency's claim for skilled professional medical personnel totaling \$7,520,285 (\$5,640,213 Federal share) for the period October 1, 2002, through September 30, 2003 (line 3 of the CMS-64.10 form). We limited our review to determining whether the State agency's claims for skilled professional medical personnel were eligible for the 75-percent enhanced rate. We did not determine the allowability of the portion claimed at the 50-percent rate. The costs questioned in this report represent the difference between the 50-percent and 75-percent rates.

We did not perform a detailed review of the State agency's internal controls. We limited our review to obtaining an understanding of the policies and procedures that the State agency used to claim skilled professional medical personnel costs.

We performed fieldwork at the State agency in Columbus, OH, from June through December 2004.

Methodology

To accomplish the audit objective, we:

- reviewed applicable Federal regulations and CMS guidance;
- reviewed State agency procedures for claiming skilled professional medical personnel costs;
- reviewed the State agency's supporting documentation for the relevant paid claims;
- reviewed service contracts between the State agency and contracted agencies;
- interviewed all 46 State agency personnel and reviewed departmental documentation regarding job qualifications, classifications, and duties for individuals claimed as skilled professional medical personnel; and
- judgmentally selected and interviewed 74 of the 219 contracted personnel and reviewed documentation regarding job qualifications, classifications, and duties for positions with significant skilled professional medical personnel claims.

We performed the audit in accordance with generally accepted government auditing standards.

FINDINGS AND RECOMMENDATIONS

The State agency received overpayments for Federal fiscal year 2003 totaling \$142,964 in Federal funds. Contrary to Federal regulations, the State agency claimed Federal enhanced funding of \$120,464 for:

- salaries and fringe benefits for 22 individuals lacking the required professional education and training (\$112,895 Federal share),
- training and travel related to ineligible State agency personnel (\$1,885 Federal share), and
- accounting costs not eligible for the enhanced rate (\$5,684 Federal share).

The State agency also claimed the enhanced rate for 138 individuals whose basis for allocating costs was estimated and not supported by time studies as required in their contractual agreement. The State agency received \$893,281 in enhanced Federal funding that we set aside for a CMS review and determination of the portion allocable to skilled professional medical personnel activities.

In addition, an accounting error caused by a number transposition on a quarterly claim for reimbursement resulted in additional overpayments (\$22,500 Federal share) to the State agency.

These overpayments occurred because the State agency did not have the necessary procedures in place to prevent unallowable costs for skilled professional medical personnel from being claimed at the enhanced rate.

FEDERAL REQUIREMENTS FOR SKILLED PROFESSIONAL MEDICAL PERSONNEL

Section 1903(a)(2) of the Social Security Act provides that States are entitled to an amount equal to 75 percent of sums expended for compensation or training of skilled professional medical personnel and staff supporting such personnel.

Skilled professional medical personnel are defined in 42 CFR § 432.2 as:

. . . physicians, dentists, nurses, and other specialized personnel who have professional education and training in the field of medical care or appropriate medical practice and who are in an employer-employee relationship with the Medicaid agency. It does not include other nonmedical health professionals such as public administrators, medical analysts, lobbyists, senior managers or administrators of public assistance programs or the Medicaid program.

Regulations (42 CFR § 432.50(a)) state that Federal matching funds are available “for salary or other compensation, fringe benefits, travel, per diem, and training, at rates determined on the basis of the individual’s position”

In addition, 42 CFR § 432.50(d) states that the enhanced matching rate of 75 percent is available for skilled professional medical personnel and directly supporting staff if the following criteria are met:

- (i) The expenditures are for activities that are directly related to the administration of the Medicaid program, and as such do not include expenditures for medical assistance;
- (ii) The skilled professional medical personnel have professional education and training in the field of medical care or appropriate medical practice. “Professional education and training” means the completion of a 2-year or longer program leading to an academic degree or certificate in a medically

related profession. This is demonstrated by possession of a medical license, certificate, or other document issued by a recognized National or State medical licensure or certifying organization or a degree in a medical field issued by a college or university certified by a professional medical organization . . . ;

- (iii) The skilled professional medical personnel are in positions that have duties and responsibilities that require those professional medical knowledge and skills;
- (iv) A State-documented employer-employee relationship exists between the Medicaid agency and the skilled professional medical personnel and directly supporting staff; and
- (v) The directly supporting staff are secretarial, stenographic, and copying personnel and file and records clerks who provide clerical services that are directly necessary for the completion of the professional medical responsibilities and functions of the skilled professional medical staff. The skilled professional medical staff must directly supervise the supporting staff and the performance of the supporting staff's work.

Regulations (42 CFR 432.50(c)) require Federal Financial Participation to be prorated for staff time that is split among functions reimbursed at different rates. Enhanced funding is only available for the time allocable to functions for which the higher rate is authorized.

Office of Management and Budget Circular A-87, Cost Principles for State, Local and Indian Tribal Governments, states that budget estimates or other distribution percentages determined before the services are performed do not qualify as support for charges to Federal awards.

COSTS IMPROPERLY CLAIMED AT THE ENHANCED RATE

The State agency improperly claimed enhanced Federal funding for (1) salaries for individuals lacking medical education and training, (2) training and travel related to ineligible State agency personnel, and (3) accounting costs not eligible for the enhanced rate. As a result, the State agency received Medicaid overpayments of \$120,464 in Federal funds. Additional enhanced Federal claims for duties requiring medical expertise and totaling \$893,281 were not adequately supported. Charges for skilled professional medical personnel activities were based on negotiated percentages from a 1996 CMS decision letter, instead of required time studies.

Salary Compensation

Total salaries of \$451,580 (\$112,895 Federal share) did not qualify for enhanced Medicaid reimbursement because the contracted staff or State employees lacked the required professional education and training. The basis for the enhanced Federal claims of \$893,281 for salaries totaling \$3,573,123 was not supported by required time studies. The following sections detail the number of staff by position that did not meet applicable program or contract requirements.

Lack of Professional Education and Training

The State agency claimed salaries of 14 contracted staff, amounting to \$194,540, and 8 employees, amounting to \$257,040, for enhanced reimbursement as skilled professional medical personnel even though these employees lacked the required professional education and training. (See Table 1.)

Table 1: Unallowable Enhanced Payments Due to Lack of Professional Education and Training

Position	Number of Staff	Costs Claimed	Federal Share of Overpayments
Clinical Specialist	13	\$164,301	\$41,075
Medicaid CAS	1	30,239	7,560
Medicaid Health Systems Admin	6	199,544	49,886
Medicaid Health Systems Specialist	2	57,496	14,374
Total	22	\$451,580	\$112,895

Federal regulations (42 CFR § 432.50(d)(ii)) require skilled professional medical personnel to possess a medical license or a degree in a medical field to qualify for the enhanced rate. The 22 individuals lacked such credentials. Therefore, these costs were unallowable for enhanced Medicaid reimbursement, and the State agency was overpaid \$112,895 in Federal funds.

Appropriate Duties Not Supported

The State agency claimed the enhanced rate for 138 individuals without appropriate skilled professional medical personnel duties being supported. The allocation of costs to the Federal Government was based on negotiated percentages from a November 1996 CMS decision letter on this topic and was not supported by time studies, as required in their contractual agreement. (See Table 2.)

Table 2: Enhanced Payments Claimed for Skilled Professional Medical Personnel – No Time Studies Performed

Position	Number of Staff	Costs Claimed	Federal Share of Enhanced Payment
Assessor/Case Manager	42	\$949,069	\$237,267
Case Management Unit Clerk	2	17,762	4,441
Case Aide	6	55,090	13,773
Case Manager	59	1,878,605	469,651
Case Management Supervisor	29	672,597	168,149
Total	138	\$3,573,123	\$893,281

The contracted staff managed the services or supervised those providing services to Medicaid beneficiaries enrolled in the PASSPORT (Pre-Admission Screening System Providing Options and Resources Today) and RSS (Residential State Supplement) programs.¹ The assessor/case managers performed Medicaid eligibility assessment and other case management activities. The case management unit clerks, case aides, and case management supervisors performed administrative duties, while the case managers performed duties such as securing various home services, assisting with bill paying, grocery shopping, ensuring that the services billed by the providers were received, and managing the costs of the services provided to their clients.

The agreement between the Ohio Departments of Job and Family Services, Aging, and the contracted agencies specifies that allowable costs will be allocated by time studies adhering to CMS guidelines contained in CMS Publication 15-1. The CMS guidelines state that the time study must be contemporaneous with the costs to be allocated. Thus, a time study conducted in the current cost reporting year may not be used to allocate the costs of prior or subsequent cost reporting years. Additionally, the time study must be provider specific.

The State agency improperly claimed costs for 138 contracted staff based on a November 20, 1996 decision letter from the Region V CMS Financial Management Branch. That letter, concerning deferred claims for enhanced Federal matching funds, allowed the Ohio Department of Aging to claim deferred skilled professional medical personnel costs for professional positions at varied rates of allocation. CMS allowed the enhanced reimbursement rate to be applied to 100 percent of the costs for direct-line positions, 75 percent of the costs for first-line managers, and 50 percent of the costs for higher-level managers and support staff. The current allocation of costs was improperly based on this prior period information. The estimated costs, associated with skilled professional medical personnel activities, was not based on current period information or a time study in accordance with contractual requirements. The allocated salary costs for the 138 individuals in Table 2 were, therefore, set aside for further review by CMS.

¹ PASSPORT is Ohio’s home-based waiver program, which allows Medicaid beneficiaries to receive a package of home care services rather than nursing home care. Similar to PASSPORT, RSS is a community-based waiver program that helps Medicaid beneficiaries who do not require nursing home care to pay for an alternative living arrangement.

Training and Travel

The State agency improperly claimed \$7,539 for training and travel costs associated with six State agency employees erroneously claimed as skilled professional medical personnel. Federal regulations (42 CFR § 432.50(a)) limit Medicaid funding at the enhanced rate to salary or other compensation, fringe benefits, travel, per diem, and training expenses for skilled professional medical personnel. Therefore, these costs were unallowable for enhanced Medicaid reimbursement, and the State agency was overpaid \$1,885 in Federal funds.

Accounting Costs

Other costs that the State agency claimed included \$22,736 for payroll accounting, central accounting, collective bargaining, and other accounting-related costs, which are unallowable as skilled professional medical personnel costs. Federal regulations (42 CFR § 432.50(a)) limit Medicaid reimbursement at the enhanced rate to salary or other compensation, fringe benefits, travel, per diem, and training expenses for skilled professional medical personnel. These accounting-related costs were not within the limited types of costs qualifying for enhanced Medicaid reimbursement. The State agency was overpaid \$5,684 in Federal funds.

Federal Overpayments

In total, the State agency received Federal Medicaid overpayments of \$120,464 for the audit period.

Causes of Unallowable Claims for Enhanced Reimbursement

We attribute these unallowable claims to the State agency's lack of procedures to ensure that:

- only qualified individuals were claimed as skilled professional medical personnel, and
- only allowable cost categories were claimed for reimbursement at the Federal enhanced rate.

ACCOUNTING ERROR

The State agency overstated its second-quarter claim for Medicaid reimbursement by \$30,000 because of a transposition error on the CMS-64. As a result, the Federal share was overstated by \$22,500.

RECOMMENDATIONS

We recommend that the State agency:

- refund \$120,464 (the difference between the 50-percent and 75-percent reimbursement rates) to the Federal Government for Medicaid overpayments for skilled professional medical personnel,
- refund \$22,500 to the Federal Government for the accounting error included in the second-quarter reimbursement,
- work with Regional CMS officials to establish an appropriate portion of the \$893,281 in enhanced funding that is associated with skilled professional medical personnel activities,
- implement procedures to ensure that future claims for enhanced Federal reimbursement include only qualified costs for skilled professional medical personnel, and
- identify and refund the Federal share of Medicaid overpayments for skilled professional medical personnel improperly claimed after September 30, 2003.

STATE AGENCY COMMENTS AND OIG RESPONSE

Salary Compensation - Lack of Professional Education and Training. Based on additional educational information provided in the State agency comments, we eliminated a Desk Review Supervisor from our recommended adjustment. Although the State agency accepted our adjustment for eight employees lacking the required education and training, State agency officials stated that the remaining 14 contracted individuals were support staff and not required to meet the education and training requirements.

We disagree. These individuals were not support staff, defined as secretarial, stenographic, and copying personnel and file and records clerks, who provide clerical services. Instead, these individuals performed services such as assisting clients with application forms, representing clients during interviews with the Ohio Department of Job and Family Services, and arranging services for clients. These types of functions do not qualify as skilled professional medical personnel support staff activities. Therefore, without meeting education and training requirements, we continue to recommend an adjustment for the costs claimed for these individuals.

Salary Compensation – Appropriate Duties Not Supported. Based on State agency comments and associated documentation, we revised our previous recommendation pertaining to salary costs of contracted staff not performing duties requiring professional medical knowledge and skill. Rather than questioning costs, we are setting aside the enhanced salary claims for activities

requiring skilled professional medical personnel, which were not supported by required time studies. State agency comments provided Departmental Appeals Board Decisions and CMS regional approval letters that indicate that case management and associated supervisory and support staff were allowable when staff were performing skilled professional medical personnel activities. State agency officials used the negotiated percentages from the November 1996 CMS regional approval letter to estimate the skilled professional medical personnel portion of staff salaries to be claimed for enhanced reimbursement.

Although we agree that case management and associated supervisory and support staff costs may be allowable for enhanced reimbursement, if the activity requires skilled professional medical staff, the State agency based its claims on negotiated percentages contained in a November 20, 1996 CMS letter report and not required time studies of qualifying activities performed by employees. In its November 1996 deferral approval, CMS only partially allowed claims for social worker and supporting staff positions. The State agency's cost allocation was based on the prior period percentages, did not provide a current period measurement of the cost of activities by skilled professional medical personnel, and was not in accordance with Federal or contractual requirements.

Training and Travel, Accounting Costs, and Accounting Error.

State agency officials agreed with the findings and recommendations.

APPENDIX

Bob Taft
Governor



Barbara Riley
Director

30 East Broad Street · Columbus, Ohio 43215-3414
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July 1, 2005

Paul Swanson
Regional Inspector General for Audits
Office of Audit Services
233 North Michigan Avenue
Chicago, Illinois 60601

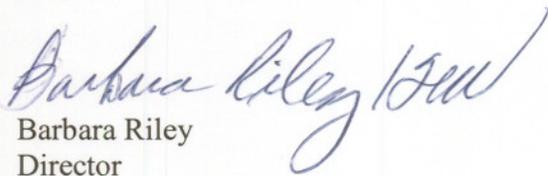
Re: Audit of Ohio's Medicaid Payments for Skilled Professional Match
Report A-05-04-00078

Dear Mr. Swanson:

Thank you for the opportunity to review and comment on the draft audit report A-05-04-00078 dated June 2005.

As requested our written comments representing our views on the validity of the facts and reasonableness of the recommendations are attached. If you have any questions please contact: Stephen Huzicko, Office of the Chief Inspector, at 614-466-3015

Sincerely,


Barbara Riley
Director

Findings and Responses:

OIG Finding: The state agency improperly claimed the enhanced rate for 139 individuals whose duties did not require professional medical knowledge and skills.

ODJFS Response:

ODJFS disagrees this finding as it relates to the 138 contracted staff. It appears as if the OIG has disallowed all case managers and any supervisory or support staff identified with case management activities. The state disagrees with this blanket disallowance. Ohio began seeking the enhanced federal reimbursement for skilled professional medical personnel back in 1995. There was consistent open discussion with the Department of Health and Human Services during that time to ensure appropriate skilled match claiming. At that time case management activity was approved for skilled match (see Appendix A and the attachments indicating case management positions designated as “C.M.”, the supervisors designated as “C.M.Sup’r” and the support staff designated as “C.M.C.A.” approved for the enhanced match by the Department of Health and Human Services in 1996).

There have been no changes to Federal Statute, regulations, policy issuances, review guides and Departmental Appeal Boards decisions regarding the skilled match criteria since the Department of Health and Human Services provided their approval in the letter dated Nov. 20 1996. Neither have the activities performed by case managers changed. These positions require medical knowledge and skills as evidenced by the expectations put forth by the Federal Government. Please refer to the Title XIX of the Social Security Act. Section 1915(c) of the Social Security Act grants authority for a state to operate home and community based waiver programs. The Act states “(c)(1) The Secretary may by waiver provide that a State plan approved under this title may include as **“medical assistance”** under such plan payment for part or all of the cost of home or community-based services (other than room and board) approved by the Secretary which are provided pursuant to a **written plan of care** to individuals with respect to whom there has been a determination that but for the provision of such services the individuals would require the level of care provided in a hospital or a nursing facility or intermediate care facility for the mentally retarded the cost of which could be reimbursed under the State plan.” (emphasis added)

The Centers for Medicare and Medicaid Services requires states applying for a home and community base waiver to complete an application. This application makes reference to the plan of care; “The plan of care is the fundamental tool by which the state will ensure the health and welfare of the individual served under this waiver . . . subject to periodic review and update . . . to determine the appropriateness and adequacy of the services, and to ensure that the services furnished are consistent with the nature and severity of the individual’s disability.

In Ohio for this specific program, it is the role of the case manager to continually monitor and adjust the care plan to ensure the health of the individual served under the waiver.

The case managers use medical knowledge and skills in monitoring the care plans to ensure the health of the individual.

ODJFS has two issues related to this finding; first the Department disagrees with the interpretation that case managers do not perform functions requiring skilled medical knowledge and secondly, activities for case management had been approved by the Department of Health and Human Services in 1996. The only thing that has changed since 1996 is the interpretation of the federal regulations which has not been imparted to the state until this audit. ODJFS should not be held accountable for past actions based on a current change in the Department of Health and Human Services interpretation of federal statute and regulations.

OIG Finding: 15 contracted staff and 8 state employees lacked the required professional education and training for enhanced payments.

ODJFS Response: ODJFS disagrees with the conclusion that the 15 contracted staff lack the required professional education and training. The Desk Review Supervisor has a Master's Degree in Social Work with a concentration in health care (see Appendix B). The remaining 14 individuals (Clinical Specialist and the Medicaid CAS) are support staff and thus not required to meet the professional education and training requirement.

ODJFS agrees that the eight staff identified in the report should not be coded as SPMP. ODJFS has since ceased coding these staff for SPMP reimbursement. ODJFS agrees to make the adjustment in the amount of \$69,944 which is the portion of the finding attributable to the eight ODJFS staff.

OIG Finding: Training and Travel

ODJFS Response:

ODJFS agrees that the eight staff identified in the report should not be coded as SPMP. ODJFS ceased coding these staff for SPMP reimbursement. ODJFS agrees to make the adjustment in the amount of \$1,885 which is the portion of the finding attributable to the eight ODJFS staff.

OIG Finding: Accounting Costs

ODJFS Response:

ODJFS agrees with this finding of the accounting error included in the second-quarter reimbursement. ODJFS previously adjusted the CMS 6400 Quarterly Report for the quarter ending 6/30/04 in the amount of \$22,500.

Recommendations and Responses:

OIG Recommendation: Refund \$1,042,645 (the difference between the 50-percent and 75-percent reimbursement rates) to the Federal Government for Medicaid overpayments for skilled professional medical personnel.

ODJFS Response: ODJFS disagrees with the OIG recommendation to refund \$1,042,645 (the difference between the 50-percent and 75-percent reimbursement rates) to the Federal Government for Medicaid overpayments for skilled professional medical personnel. Based on our response to enhanced match for payroll, overhead and travel amounts above, ODJFS agrees to make an adjustment in the amount of \$71,829.

OIG Finding: Accounting Error

ODJFS Response: ODJFS concurs with the finding.

OIG Recommendation: Refund \$22,500 to the Federal Government for the accounting error included in the second-quarter reimbursement

ODJFS has already taken appropriate action to refund the money by adjusting the CMS 6400 Quarterly Report for the quarter ending 6/30/04 in the amount of \$22,500. Therefore, no further refund to the Federal Government is due in conjunction with this finding.

OIG Recommendation: Implement procedures to ensure that future claims for enhanced Federal reimbursement include only qualified costs for skilled professional medical personnel.

ODJFS response: ODJFS agrees to review internal policies and procedures to ensure that future claims for enhanced Federal reimbursement for state employees include only qualified costs for skilled professional medical personnel.

ODJFS contends there are very specific procedures in place for claiming enhanced federal reimbursement for the contracting agencies. Please see Appendix C and D. These procedures have been in place, with the Department of Health and Human Services approval, since 1996 (Appendix A). For the contract staff it is not an issue of lack of procedures but rather a matter of what appears to be a different interpretation of regulations causing a conflict with the procedures. When the final report is issued ODJFS will determine the need for revising procedures for the contracting agencies to better reflect current interpretation of the regulations for federal reimbursement for skilled professional medical personnel.

OIG Recommendation: Identify and refund the Federal share of Medicaid overpayments for skilled professional medical personnel improperly claimed after September 30, 2003

ODJFS Response: ODJFS partially agrees with this recommendation. The issue remains as to what claims will be defined as an overpayment.



DEPARTMENT OF HEALTH & HUMAN SERVICES

Region V
Health Care Financing
Administration

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Chicago, Illinois 60603-6201

NOV 20 1996

Dominic Frissora
Chief Fiscal Officer
Ohio Department of Human Services
Office of Fiscal Services
30 East Broad Street, 30th Floor
Columbus, Ohio 43266-0423

Dear Mr. Frissora:

RE: Regional Control Numbers OH/95/4/E/17/ADM
OH/96/1/E/04/ADM

We have completed our review of documentation provided directly to us by the Ohio Department of Aging (ODA) to substantiate the subject deferrals. The deferred claims represent enhanced Federal matching funds (25 percent) retroactively claimed for salary and fringe benefit costs for staff designated by the ODA as skilled professional medical personnel (SPMP). This letter report summarizes our findings and details the financial adjustments necessary to clear the deferred claims.

Criteria

We referenced Federal statute, regulations, policy issuances, review guides, and Departmental Appeals Board (DAB) decisions to guide our evaluation of the deferred claims. We relied heavily on DAB Decision 1434 (New Jersey) issued on August 18, 1993 in reviewing medical social worker positions. We also reviewed HCFA review reports issued to other selected States to ensure the consistency of our findings.

Several key points were gleaned from our review of available criteria:

- o SPMP are required to have education and training at a professional level in the field of medical care or appropriate medical practice before FFP can be claimed at 75 percent. Education and training at a professional level means completion of a 2-year or longer program leading to an academic degree or certificate in a medically related profession. Experience in the administration, direction, or implementation of the Medicaid program will NOT be considered the equivalent. (Federal Register, 11-12-85)
- o It was clearly the original intent of the SPMP provision in statute that enhanced funding was to provide an incentive to hire personnel who had professional education and training in a MEDICAL field BEFORE being claimed at 75 percent FFP. Congress did not intend for States to hire personnel with various backgrounds who would somehow gain medical expertise on the job. Also, Congress did not intend to count an individual's on-the-job

Page 2
Dominic Frissora

training and work experience gained in another job outside the State agency as qualifications for the SPMP designation. (Federal Register, 11-12-85)

- o General social work skills do not require specialized medical expertise. Social workers MAY qualify as SPMP if:
 - The social worker has an M.S.W. degree and, as part of the course work for the master's degree, a specialization (track or concentration) in clinical practice, health care practice, other medical application, or its equivalent. "Equivalent" refers to alternatives when a school does not offer concentrations or does not offer medical or health care concentrations, or the social worker concentrated in another area. In all cases, a M.S.W. degree is still required. (Medicaid State Operations Letter 92-1). In legal proceedings, the DAB relied heavily on academic field placements (academic hours awarded) in appropriate settings but discounted on-the-job experience and training. (Decision 1434).
 - The social worker has a Bachelor's degree AND has completed some other training or education in a 2-year or longer program that leads to an academic degree or certificate in a medically related profession. In Decision 1434 the Board disallowed employees with Bachelors in Social Work alone but allowed an employee with a Bachelors in Social Work AND a separate two-year associate degree in rehabilitation services.
- o Allowable supporting staff are narrowly defined as secretarial, stenographic, clerical, and other subprofessional staff. The SPMP must directly supervise the supporting staff and the activities must be directly necessary for the completion of the professional medical responsibilities and functions of the SPMP. (42 CFR 432.50 (d)(1)(v)).
- o FFP is required to be prorated for staff time that is split among functions reimbursed at different rates. Enhanced funding is only available for the time allocable to functions for which the higher rate is authorized. (42 CFR 432.50 (b)).

Review Scope and Approach

The Ohio Department of Aging provided us with financial schedules that detail the claim composition by staff person. Tables of Organization for the PASSPORT Administrative Agencies (PAA) and selected position descriptions were also supplied. For social worker positions, they gave us education and experience summaries, and in most instances, also provided copies of college transcripts and evidence of continuing education courses and professional licensure.

Page 3
Dominic Frissora

Besides evaluating the documentation provided, we met several times with representatives of the Ohio Department of Aging to discuss and clarify information they provided. We also spoke with ODA staff several times on the telephone.

The professional positions claimed as SPMP were individually reviewed and evaluated. Supervisor SPMP salaries were allocated to recognize functions not qualifying for enhanced FFP. For administrative ease, ODA claimed as SPMP, and we accepted, 75% of the salary and fringes of first-line managers and 50% of the salary and fringes higher-level managers that also met the SPMP guidelines.

Supporting staff positions generally consisted of case aides and other clerical staff.

With respect to case aides, our review showed large variability in qualifications and duties between PAAs. Some agencies require case aides to have college degrees, some prefer college degrees but require less, and some only require a high school diploma. Some case aide position descriptions show limited clerical duties while others show extensive clerical tasks (filing, mailing, etc.). Selected case aide position descriptions also include non-qualifying management information system or eligibility duties. An additional complicating factor is that many case aides are supervised by staff that perform SPMP functions on a less than full-time basis. To address the variability problems and facilitate timely review completion, ODA staff and us both agreed that a composite rate of 50 percent of case aide time should be allowed as SPMP supporting staff. With respect to other wholly clerical staff, we generally allowed the supporting staff in the same proportion as their supervising SPMP.

Results of Review

Summarily, of the \$3,889,874 FFP combined total of the two deferrals, \$1,105,320 was previously adjusted by ODHS or allowed by HCFA. Of the remaining \$2,784,554 FFP, ODA withdrew claims totaling \$1,308,903. Of the remainder claim totaling \$1,475,651 FFP, our review allowed \$1,233,942 FFP and disallowed \$241,709 FFP.

We allowed 225 of 277 claimed positions (82 percent), totally or in part. All claimed registered nurse positions were allowed as SPMP as were 12 of 24 social worker positions. Approximately half (38 of 77) of the supporting staff positions were allowed.

Attachment A to this letter summarizes the financial history of the deferred claims and details HCFA-64 adjustments required to resolve the deferrals. Attachment B to this letter details the positions and related amounts we allowed in total or in part. Attachment C to this letter details the positions and related amounts we have disallowed. For each disallowed position in Attachment C we have assigned a Reason Code (defined within the attachment) to explain the basis for our negative finding.

Page 4
Dominic Frissora

Please note this letter report is based on an agreement in principle reached informally with ODA staff. The review results contained in this letter report are based solely on organization structures and circumstances unique to ODA. The agreement concepts are not necessarily precedents for cost allocations and enhanced funding decisions related to other State of Ohio components.

Within five working days of receipt of this letter, please forward a letter to me confirming your concurrence with the findings and adjustments incorporated in this document. Your response should indicate the quarter in which the financial adjustments will be completed on the HCFA-64 report.

We appreciate the assistance provided to us by both your staff and Ohio Department of Aging staff. Special thanks to Carol Shkolnik and Dick LeBlanc.

If you have any questions regarding this matter, please contact me at (312) 886-5344 or have a member of your staff contact Don Clifton, in Columbus at 469-6892.

Sincerely,



John R. Tolan, Chief
Financial Management Branch
Division of Medicaid and Managed Care Programs

/ cc: Sara Abbott, ODA