

Report in Brief

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U.S. DEPARTMENT OF HEALTH & HUMAN SERVICES
OFFICE OF INSPECTOR GENERAL



Why OIG Did This Review

Through previous work performed at the Wisconsin Medicaid Fraud Control Unit, OIG learned that Wisconsin had recovered significant damages from Medicaid-related settlements and a legal judgment with various pharmaceutical companies. Wisconsin is required to report recoveries for these damages on the Quarterly Medicaid Statement of Expenditures for the Medical Assistance Program (Form CMS-64) and to refund the Federal share to the Federal Government. We could not determine whether Wisconsin reported the recoveries it received without conducting an audit because it did not report any amount where it should have reported settlements and a judgment on the Form CMS-64.

Our objective was to determine whether Wisconsin reported and returned the entire Federal share of Medicaid-related settlements and judgments for the period October 2008 through September 2016.

How OIG Did This Review

We worked with Wisconsin to identify what portion of the \$159.5 million for eight settlements and one judgment received was included on the Form CMS-64 reports. We obtained legal documents related to the settlements and the judgment, and we obtained Wisconsin's documentation supporting its reporting of the settlements and judgment on the Form CMS-64 to determine whether Wisconsin reported the correct Federal share.

Wisconsin Did Not Report and Refund the Full Federal Share of Medicaid-Related Settlements and a Judgment

What OIG Found

Wisconsin did not report and return \$27.6 million (Federal share) of Medicaid-related settlements and a judgment for the period October 2008 through September 2016. Specifically, it (1) underreported \$18.7 million (Federal share) for six settlements and one judgment by computing the Federal share only on the net proceeds received after fees and interest were removed and (2) failed to report any of the \$9.0 million (Federal share) for two settlements.

Wisconsin did not properly report the settlements and a judgment because it (1) lacked policies that addressed the reporting of recoveries from State actions taken because of harm to its Medicaid program and (2) did not have procedures to help ensure that it reported recoveries on the Form CMS-64.

What OIG Recommends and Wisconsin Comments

We recommend that Wisconsin (1) refund \$27.6 million to the Federal Government; (2) determine whether settlements and judgments received after September 30, 2016, were reported, and refund the Federal share of any recoveries not reported in their entirety; and (3) implement policies to ensure that all settlements and judgments are reported properly.

In written comments on our draft report, Wisconsin considered CMS's State health official letter regarding the refunding of the Federal share of Medicaid-related settlements or judgments as unlawful and not applicable to the audit. Wisconsin did not concur with the amount to be refunded in our first recommendation because it objected to awarded attorney fees, forfeitures, penalties, and other judgment costs and related interest being included in the amount that it should have reimbursed the Federal Government. Wisconsin accepted the second and third recommendations and stated that they had been implemented.

After reviewing the State agency's comments, we maintain that our findings and recommendations are valid. During the period of our audit, CMS's letter was effective in Wisconsin and applied to Wisconsin's refunding of the Federal share of Medicaid overpayments, damages, fines, penalties, and any other component of a settlement or judgment. We are unsure whether Wisconsin followed our second and third recommendations properly because we consider settlements and judgments to be properly reported when they are in accordance with CMS's letter.