



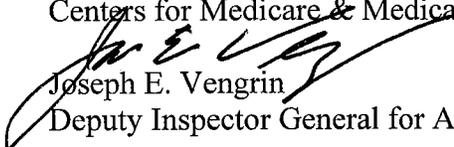
DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of Inspector General

Washington, D.C. 20201

JUN 15 2006

TO: Wynethea Walker
Director, Audit Liaison Staff
Centers for Medicare & Medicaid Services

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

SUBJECT: Review of Medicaid School-Based Services in Kansas—Bundled Rate
Development (A-07-05-01018)

Attached is an advance copy of our final report on Medicaid school-based health services in Kansas. We will issue this report to Kansas within 5 business days. We conducted the audit as part of a multistate initiative requested by the Centers for Medicare & Medicaid Services (CMS).

The Medicaid school-based health services program allows reimbursement for health-related services in a school setting. Local education agencies (school districts) provide or arrange such services for children with special needs identified in their individualized education plans. Each child's primary disability is specified in the child's individualized education plan.

Instead of using the traditional fee-for-service basis to pay for school-based services, Kansas uses bundled payment rates and reimburses participating school districts one monthly payment for each special education student. Kansas developed the rates using data on the cost and utilization of health services by special education students in six school districts. During fiscal years (FYs) 1998–2003, the Federal share was approximately \$135.2 million.

Our objective was to determine whether Kansas developed the payment rates for Medicaid school-based health services pursuant to Federal requirements and the State plan.

Kansas did not develop the payment rates for Medicaid school-based health services pursuant to Federal requirements and the State plan. Kansas used incorrect indirect cost rates and service utilization data to develop the payment rates. Kansas did not have adequate internal controls to ensure that it correctly developed the payment rates. As a result, the payments to school districts for FYs 1998–2003 were incorrect, and Kansas received \$18.5 million of overpayments.

We recommend that Kansas refund \$18.5 million to the Federal Government, calculate and refund all overpayments that occurred subsequent to our audit period, and

develop and implement adequate internal controls to ensure that future Federal claims for school-based services are consistent with Federal requirements and the State plan.

In its comments on our draft report, Kansas concurred with the findings and two of the recommendations. Kansas agreed to refund \$18.5 million and stated that it would continue efforts to ensure that its Medicaid-funded school-based services program complies with all Federal requirements. However, Kansas did not address our recommendation to calculate and refund all overpayments that occurred subsequent to our audit period.

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 Patrick J. Cogley, Regional Inspector General for Audit Services, Region VII, at (816) 426-3591. Please refer to report number A-07-05-01018.

Attachment



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of Inspector General
Offices of Audit Services

Report Number: A-07-05-01018

JUN 16 2006

Region VII
601 East 12th Street
Room 284A
Kansas City, Missouri 64106

Mr. Scott Brunner
Director of Medical Policy
Department of Social and Rehabilitation Services
915 SW. Harrison Avenue, Room 651-South
Topeka, Kansas 66612-1570

Dear Mr. Brunner:

Enclosed are two copies of the U.S. Department of Health and Human Services (HHS), Office of Inspector General (OIG) final report entitled "Medicaid School-Based Services in Kansas—Bundled Rate Development." The report covers the bundled rates that Kansas developed for school-based services and the ensuing Medicaid reimbursement for fiscal years 1998–2003. We will forward a copy of this report to the HHS action official noted 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 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.

In accordance with the principles of the Freedom of Information Act (5 U.S.C. § 552, as amended by Public Law 104-231), OIG reports issued to the Department's grantees and contractors are made available to the public to the extent the information is not subject to exemptions in the Act that the Department chooses to exercise (see 45 CFR part 5).

Please refer to report number A-07-05-01018 in all correspondence.

Sincerely,

Patrick J. Cogley
Regional Inspector General
for Audit Services

Enclosures

Page 2 – Mr. Scott Brunner

Direct Reply to HHS Action Official:

Thomas Lenz
Regional Administrator, Region VII
Centers for Medicare & Medicaid Services
Richard Bolling Federal Building, Room 227
601 East 12th Street
Kansas City, Missouri 64106

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**REVIEW OF MEDICAID
SCHOOL-BASED SERVICES IN
KANSAS—BUNDLED RATE
DEVELOPMENT**



Daniel R. Levinson
Inspector General

June 2006
A-07-05-01018

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

BACKGROUND

The Medicaid school-based health services program allows reimbursement for health-related services in a school setting. Local education agencies (school districts) provide or arrange such services for children with special needs identified in their individualized education plans. Each child's primary disability is specified in the child's individualized education plan.

In Kansas, the Department of Social and Rehabilitation Services administers Medicaid. Instead of using the traditional fee-for-service basis to pay for school-based services, Kansas uses bundled payment rates and reimburses participating school districts one monthly payment for each special education student. Kansas developed the rates using data on the cost and utilization of health services by special education students in six school districts. There are 15 flat payment rates that vary according to primary disability.

The Federal share of Medicaid reimbursement for school-based services in Kansas ranged from 59.71 to 63.15 percent of the amounts claimed by school districts for fiscal years (FYs) 1998–2003. During that period, the Federal share was approximately \$135.2 million.

OBJECTIVE

Our objective was to determine whether Kansas developed the payment rates for Medicaid school-based health services pursuant to Federal requirements and the State plan.

SUMMARY OF FINDINGS

Kansas did not develop the payment rates for Medicaid school-based health services pursuant to Federal requirements and the State plan. Kansas used incorrect indirect cost rates and service utilization data to develop the payment rates. Kansas did not have adequate internal controls to ensure that it correctly developed the payment rates. As a result, the payments to school districts for FYs 1998–2003 were incorrect, and Kansas received \$18.5 million of overpayments.

RECOMMENDATIONS

We recommend that Kansas:

- refund \$18.5 million to the Federal Government,
- calculate and refund all overpayments that occurred subsequent to our audit period, and
- develop and implement adequate internal controls to ensure that future Federal claims for school-based services are consistent with Federal requirements and the State plan.

AUDITEE'S COMMENTS

Kansas concurred with the findings and two of the recommendations. Kansas agreed to refund \$18.5 million and stated that it would continue efforts to ensure that its Medicaid-funded school-based services program complies with all Federal requirements. However, Kansas did not address our recommendation to calculate and refund all overpayments that occurred subsequent to our audit period.

Kansas's comments are included in their entirety as Appendix B.

OFFICE OF INSPECTOR GENERAL'S RESPONSE

We continue to believe that Kansas should calculate and refund all overpayments that occurred subsequent to our audit period.

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INTRODUCTION

BACKGROUND

We conducted this audit at the request of the Centers for Medicare & Medicaid Services (CMS).

Medicaid School-Based Program

Title XIX of the Social Security Act (the Act) established the Medicaid program to pay for medical assistance costs for persons with limited income and resources. The Medicaid program is a jointly funded cooperative venture between the Federal and State Governments. Each State administers its Medicaid program in accordance with a State plan approved by CMS to ensure compliance with Federal requirements.

Congress amended section 1903(c) of the Act in 1988 to allow Medicaid coverage of health-related services provided to children pursuant to Part B of the Individuals with Disabilities Education Act. Medicaid may reimburse States for school-based health services shown on a child's individualized education plan (IEP), including physical therapy, occupational therapy, speech pathology, and psychological services. To be reimbursable under Medicaid, services must be (1) provided to Medicaid-eligible children, (2) medically necessary, (3) claimed pursuant to Federal and State regulations, and (4) included in the State plan.¹

Kansas School-Based Program

In Kansas, the Department of Social and Rehabilitation Services administers the Medicaid program. Individual school districts provide or arrange health services for students with special needs when such health services are identified in the students' IEPs.

Instead of using the traditional fee-for-service basis to pay for school-based services, Kansas uses bundled payment rates and reimburses participating school districts one monthly payment for each special education student. The 15 individual payment rates vary depending on the student's primary disability but are flat rates regardless of the number of services provided during the month.

In 1997, Kansas developed the rates using data on the cost and utilization of health services by special education students in six school districts. The costs (direct and indirect) were actual expenditures for health-related services provided during the 1995–96 school year. The utilization data identified health-related services that the sampled students received during September 1996. Kansas used a complex formula to calculate the payment rates.

Kansas claims Federal Medicaid reimbursement for the amounts it reimburses school districts. The Federal share of Medicaid reimbursement for school-based services ranged from 59.71 to 63.15 percent of the amounts claimed by school districts for fiscal years (FYs) 1998–2003.

¹Pursuant to section 1902(a)(30)(A) of the Act, State plans must provide methods and procedures to assure that payments are consistent with efficiency, economy, and quality of care.

During that period, Kansas received approximately \$135.2 million in Federal Medicaid reimbursement for all school districts.

OBJECTIVE, SCOPE, AND METHODOLOGY

Objective

Our objective was to determine whether Kansas developed the payment rates for Medicaid school-based health services pursuant to Federal requirements and the State plan.

Scope

We reviewed the \$135.2 million of Federal Medicaid reimbursement that Kansas received for FYs 1998–2003.

We reviewed the accuracy of the original cost and utilization data that Kansas used to develop the payment rates. We limited our review of internal controls to the methodology that Kansas used to develop the payment rates based on data from the 1995–96 school year.

We performed this audit in conjunction with three other audits of Kansas school-based services. In the other audits, we reviewed (1) the accuracy of the calculations that Kansas used to develop the payment rates (A-07-04-01003), (2) the claims that Kansas made for school-based health services (A-07-03-00155), and (3) the method that Kansas used to adjust the payment rates for inflation (A-07-06-01030). We used the information obtained and reviewed during those audits in performing this review. The amounts questioned in this report do not duplicate the amounts questioned in the other audits.

We performed our fieldwork at the Department of Social and Rehabilitation Services main office in Topeka, Kansas.

Methodology

To accomplish our objective, we:

- reviewed applicable Federal Medicaid laws and regulations, Kansas laws and regulations, and Kansas's State Medicaid plan;
- interviewed officials from CMS, the Kansas Department of Social and Rehabilitation Services, and the Kansas State Board of Education to obtain an understanding of how Kansas developed the payment rates;
- reconciled the cost and utilization data for each of the six school districts that Kansas used to develop the payment rates to the school districts' actual expenditures for State FY 1996 as recorded on the State budget forms;

- used the data in the Medicaid Management Information System to identify the Federal Medicaid reimbursement to Kansas for all school districts for FYs 1998–2003; and
- reconciled the service utilization data that Kansas used to develop the payment rates to service documentation logs to determine whether health-related services were authorized and performed.

We also calculated the effect of the indirect cost and utilization errors on the actual payments made to school districts for FYs 1998–2003. Because these errors affected each other in the complex formula Kansas used to create the payment rates, we calculated the overall effect of the errors and did not separately identify the impact of the individual errors.

We conducted our audit in accordance with generally accepted government auditing standards.

FINDINGS AND RECOMMENDATIONS

Kansas did not develop the payment rates for Medicaid school-based health services pursuant to Federal requirements and the State plan. Kansas used incorrect indirect cost rates and service utilization data to develop the payment rates. Kansas did not have adequate internal controls to ensure that it correctly developed the payment rates. As a result, the payments to school districts for FYs 1998–2003 were incorrect, and Kansas received \$18.5 million of overpayments.

PAYMENT RATE DEVELOPMENT

Indirect Cost Rates

According to Attachment E, section (D)(1), of Office of Management and Budget (OMB) Circular A-87, “Cost Principles for State, Local, and Indian Tribal Governments”:²

- “All departments or agencies of the governmental unit desiring to claim indirect costs under Federal awards must prepare an indirect cost rate proposal and related documentation to support those costs;” and
- “A governmental unit for which a cognizant agency assignment has been specifically designated must submit its indirect cost rate proposal to its cognizant agency.”

In addition, OMB Circular A-87, section E(1), provides that “Indirect cost rates will be reviewed, negotiated, and approved by the cognizant Federal agency on a timely basis. Once a rate has been agreed upon, it will be accepted and used by all Federal agencies unless prohibited or limited by statute.”

A delegation agreement between the U.S. Department of Education (the cognizant Federal agency) and the Kansas State Board of Education (Board) sets forth the requirements for establishing indirect costs rates for Kansas school districts. In the delegation agreement, the U.S.

²Federal regulations (45 CFR § 92.22(b)) make OMB Circular A-87 applicable to claims for school-based health services.

Department of Education approved the Board’s methodology to establish indirect cost rates. Instead of reviewing, negotiating, and approving the proposed indirect cost rates, the U.S. Department of Education delegated to the Board the authority to develop and implement indirect costs rates for Kansas school districts. The delegation agreement states that the indirect cost rates for the school districts “will serve as the sole basis for budgeting and allocating indirect cost reimbursement under Federal programs” and that “application of the [school districts’] indirect cost rates is binding on all Federal agencies.” Kansas was required to use the indirect cost rates established by the Board, which were effective during the 1995–1996 school year.

However, when Kansas developed the payment rates for Medicaid school-based health services, it did not use the indirect cost rates that the Board developed. Instead, Kansas created its own methodology to calculate the indirect rates. Kansas’s methodology calculated approximately 25 percent of total costs as indirect. If Kansas had used the Board’s rates as required, it would have identified approximately 15 percent of total costs as indirect. As a result, Kansas overstated its indirect costs because it did not use the Board’s indirect cost rates.

Service Utilization Data

Section 1903(c) of the Act allows Medicaid reimbursement to States for school-based health services. Specifically, the Act allows payment “for medical assistance for covered services furnished to a child with a disability because such services are included in the child’s individualized education program established pursuant to part B of the Individuals with Disabilities Education Act.”

Pursuant to Kansas State statute 72-987(a)(1): “At the beginning of each school year, each agency shall have an individualized education program in effect for each exceptional child.” Section 72-987(b) states that: “The IEP for each exceptional child shall include: . . . (3) a statement of the special education and related services and supplementary aids and services to be provided to the child.” Further, section 91-40-16(b)(1) of the Kansas State Education Regulations states that each State agency shall ensure that “an IEP is in effect before special education and related services are provided to an exceptional child.” The Kansas State plan limits services provided to categorically needy children to the services listed on their IEPs.

Kansas State statute 72-967(a)(6) also allows school districts to “furnish transportation for exceptional children . . . for the provision of special education or related services.” Federal regulations (42 CFR § 440.170(a)) allow Federal reimbursement for transportation services.

Kansas incorrectly developed the payment rates for school-based Medicaid services by using utilization data for services that were not reimbursable under Medicaid. Kansas sampled students from the six school districts, according to primary disability, to identify service utilization. The sample results included 472 students who had received 774 health-related services. However, Kansas included 161 services that did not meet Federal and State requirements and therefore were not reimbursable under Medicaid. The services included:

- 117 services that were not authorized in the IEPs,

- 23 double-counted services, and
- 21 transportation services for students who did not receive any other Medicaid service during the sampled month.

After we eliminated nonreimbursable services and the associated students from the sample, the corrected sample results included 403 students who had received 613 services. Kansas officials could not explain why they included utilization data for nonreimbursable services in their calculation of the payment rates.

Impact of Errors in Rate Development

Kansas did not have adequate internal controls to ensure that it correctly developed the payment rates. Because Kansas did not use the correct indirect cost rates and included utilization data for nonreimbursable services, it incorrectly calculated the initial FY 1996 payment rates. As a result, the payments to school districts for FYs 1998–2003 were incorrect, and Kansas received \$18.5 million of overpayments. (See Appendix A.)

RECOMMENDATIONS

We recommend that Kansas:

- refund \$18.5 million to the Federal Government,
- calculate and refund all overpayments that occurred subsequent to our audit period, and
- develop and implement adequate internal controls to ensure that future Federal claims for school-based services are consistent with Federal requirements and the State plan.

AUDITEE’S COMMENTS

Kansas concurred with the findings and two of the recommendations. It stated that it “will work with CMS to refund the \$18.5 million . . . and continue efforts [including additional training material and policy changes] to comply with all federal rules and regulations related to Medicaid funded school-based services.” However, Kansas did not address our recommendation to calculate and refund all overpayments that occurred subsequent to our audit period.

Kansas’s comments are included in their entirety as Appendix B.

OFFICE OF INSPECTOR GENERAL’S RESPONSE

We continue to believe that Kansas should calculate and refund all overpayments that occurred subsequent to our audit period.

APPENDIXES

CALCULATION OF FEDERAL MEDICAID OVERPAYMENTS

**Kansas School-Based Health Services
Fiscal Years 1998–2003**

<u>Monthly Payment Rates</u>							
No.	Primary Disability	Developed A	Corrected B	Difference C = A – B	Percentage Difference D = C / A	Federal Medicaid Payments ¹ E	Amount Overpaid F = D * E
1.	Behavioral disorder	\$250.73	\$225.93	\$24.80	9.89%	\$11,692,627	\$1,156,523
2.	Deaf - blind	584.22	586.11	-1.89	-0.32%	309,545	(1,002)
3.	Hearing impairment	316.67	252.33	64.34	20.32%	1,538,694	312,612
4.	Mental retardation	289.13	281.35	7.78	2.69%	19,952,621	537,028
5.	Severe multiple impairment	532.95	492.46	40.49	7.60%	5,543,833	421,217
6.	Physical impairment	185.60	129.69	55.91	30.13%	919,898	277,126
7.	Other health impairment	260.00	178.96	81.04	31.17%	8,705,160	2,713,375
8.	Specific learning disability	138.08	109.68	28.40	20.57%	13,329,441	2,741,587
9.	Speech/language	193.42	154.06	39.36	20.35%	11,099,564	2,258,902
10.	Visual impairment	234.52	218.93	15.59	6.65%	499,494	33,204
11.	Autism	459.63	409.81	49.82	10.84%	3,369,189	365,205
12.	Traumatic brain injury	267.50	277.01	-9.52	-3.56%	437,156	(15,550)
13.	Special education	297.70	187.30	110.40	37.08%	18,288,864	6,782,246
14.	Early childhood	270.79	255.83	14.96	5.52%	12,940,164	714,753
15.	Developmentally delayed ²				5.52%	4,432,345	244,822
Total overpayments							\$18,542,048

¹Federal Medicaid payments do not include payments during June, July, or August (A-07-04-01003) or payments to the three school districts reviewed in report number A-07-03-00155.

²Kansas did not begin using the primary disability “developmentally delayed” until after the initial rates were developed. To determine the payment rate amount for developmentally delayed, Kansas doubled the payment rate for “early childhood.” However, because the early childhood rate was developed incorrectly, we used the percentage difference for early childhood (5.52 percent) to calculate the overpayments for developmentally delayed services.



ROBERT M. DAY, Ph.D., DIRECTOR

KANSAS

KATHLEEN SEBELIUS, GOVERNOR

DIVISION OF HEALTH POLICY AND FINANCE

May 11, 2006

Mr. Patrick J. Cogley
Office of Inspector General
Offices of Audit Services
601 East 12th Street
Room 284A
Kansas City, MO 64106

Report Number: A-07-05-01018

Dear Mr. Cogley:

Thank you for the opportunity to respond to the draft audit report entitled "Medicaid School Based Services in Kansas—Bundled Rate Development."

The Division of Health Policy and Finance (DHPF) concurs with the finding that the school-based services rates were calculated using incorrect indirect cost rates. When the initial rates were under development, discussions were held with the State Department of Education, the state Medicaid Agency, and the contractor developing the rates. At that time, Department of Education staff did not identify the federally mandated indirect cost rate that should have been used. To continue the work on the bundled rates, the Medicaid Agency and its contractor used other data to develop an indirect cost rate. This was incorrect and DHPF will work with Centers for Medicare and Medicaid Services (CMS) to calculate an appropriate refund amount related to that miscalculation.

DHPF also concurs with the finding that the bundled rates were developed using some utilization data that was inappropriate. We reviewed information from the sample of school district data analyzed by the OIG and agree that some non-reimbursable services were included. The new contract requirements specify that only Medicaid reimbursable services can be included in a school based service claim. In responses to other OIG audits, DHPF described the additional training material and policy changes that have been made to address these concerns.

Mr. Patrick J. Cogley
Office of the Inspector General
Report Number: A-07-05-01018
May 11, 2006
Page 2 of 2

DHPF will work with CMS to refund the \$18.5 million as described in the audit and continue efforts to comply with all federal rules and regulations related to Medicaid funded school-based services.

Sincerely,



Scott C. Brunner
Medicaid Director

SCB/dsw

pc: Brenda Kuder, DHPF
Kim Sage, DHPF