



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of Inspector General  
Office of Audit Services

JUL 16 2009

Region VII  
601 East 12<sup>th</sup> Street  
Room 0429  
Kansas City, Missouri 64106

Report Number: A-07-09-02751

Ms. Joan Henneberry  
Executive Director  
Department of Health Care Policy & Financing  
1570 Grant Street  
Denver, Colorado 80203-1818

Dear Ms. Henneberry:

Enclosed is the U.S. Department of Health and Human Services (HHS), Office of Inspector General (OIG), final report entitled "Review of Medicaid Credit Balances at Colorado State Veterans Home at Fitzsimons." 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 this official within 30 days from the date of this letter. Your response should present any comments or additional information that you believe may have a bearing on the final determination.

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If you have any questions or comments about this report, please do not hesitate to call me at (816) 426-3591, or contact Jim Korn, Audit Manager, at (303) 844-7153 or through email at [James.Korn@oig.hhs.gov](mailto:James.Korn@oig.hhs.gov). Please refer to report number A-07-09-02751 in all correspondence.

Sincerely,

A handwritten signature in black ink, appearing to read "Patrick J. Cogley", is written over a faint, larger signature that is mostly illegible.

Patrick J. Cogley  
Regional Inspector General  
for Audit Services

Enclosure

**Direct Reply to HHS Action Official:**

Ms. Jackie Garner  
Consortium Administrator  
Consortium for Medicaid and Children's Health Operations  
Centers for Medicare & Medicaid Services  
233 North Michigan Avenue, Suite 600  
Chicago, Illinois 60601

Department of Health and Human Services

**OFFICE OF  
INSPECTOR GENERAL**

**REVIEW OF MEDICAID CREDIT  
BALANCES AT COLORADO STATE  
VETERANS HOME AT  
FITZSIMONS**



Daniel R. Levinson  
Inspector General

July 2009  
A-07-09-02751

# ***Office of Inspector General***

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## **OFFICE OF AUDIT SERVICES FINDINGS AND OPINIONS**

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

## **EXECUTIVE SUMMARY**

### **BACKGROUND**

Pursuant to Title XIX of the Social Security Act, 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. At the Federal level, the Centers for Medicare & Medicaid Services (CMS) administers the 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. In Colorado, the Department of Health Care Policy and Financing (State agency) administers the State's Medicaid program in accordance with its CMS-approved State plan.

Providers of Medicaid services, such as nursing facilities, submit claims to the State agency in order to receive compensation for the services they provide to Medicaid beneficiaries. The State agency processes and pays the claims. The Federal Medical Assistance Percentage specifies the percentage of each claim to be reimbursed by Federal funds (this reimbursement is commonly referred to as the Federal share) and is determined pursuant to 42 CFR § 433.10.

Credit balances occur when the Federal reimbursement that a provider receives for services provided to a Medicaid beneficiary exceeds the charges earned, for example when a provider bills Medicaid for more days than the patient was at the facility. In such cases, the provider should return the existing overpayment to the Medicaid program, which pursuant to 42 CFR § 433.139 is the payer of last resort.

To avoid abuse of the Medicaid program, sound fiscal and business practices require provider repayment of identified overpayments within a reasonable period of time. Federal regulations require States to adjust any outstanding credit balances within 60 days after notification by a provider that a credit balance exists. The Code of Colorado Regulations at 10 CCR 2505-10 § 8.076.1 defines abuse of the Medicaid program as provider practices that are inconsistent with sound fiscal or business practices, to include failure to repay or make arrangements to repay overpayments or payments made in error.

Colorado State Veterans Nursing Home at Fitzsimons (Fitzsimons) is a 180-bed nursing home located in Aurora, Colorado, that participates in the Medicaid program. It is one of five State-run veterans nursing homes in Colorado.

### **OBJECTIVE**

Our objective was to determine whether the Medicaid credit balances recorded in Fitzsimons' accounting records for patient services constituted overpayments that should have been returned to the Medicaid program pursuant to Federal and State requirements.

## **SUMMARY OF FINDINGS**

Medicaid credit balances recorded in Fitzsimons' accounting records for patient services included \$87,430 (\$43,715 Federal share) in unallowable overpayments that should have been returned to the Medicaid program pursuant to Federal and State requirements. These Medicaid credit balances also included \$15,321 (\$7,661 Federal share) in potentially unallowable overpayments that may, subject to further evaluation by the State agency, have to be returned to the Medicaid program.

Fitzsimons has taken steps to identify and repay some of its outstanding Medicaid credit balances. In 2007 and 2008 it repaid over \$75,000 of outstanding Medicaid overpayments to the State agency. However, Fitzsimons still had a large backlog of outstanding credit balances that had not been addressed as of January 31, 2009. Some of these outstanding Medicaid credit balances were associated with billings that occurred over three years ago. As a result, Fitzsimons did not repay Medicaid overpayments totaling \$87,430 (\$43,715 Federal share) to the Medicaid program in a reasonable time period in accordance with Federal and State Medicaid requirements.

These errors occurred because Fitzsimons had inadequate policies and procedures in place to ensure the timely reimbursement of Medicaid overpayments. Specifically, Fitzsimons did not always have policies and procedures in place to:

- regularly review the Resident Accounts Receivable Aging Report to identify and confirm outstanding Medicaid credit balances that were payable to the State agency and
- notify the State agency regarding outstanding Medicaid credit balances that were due and payable.

Furthermore, Fitzsimons officials confirmed that most of the credit balances over 60 days old were Medicaid overpayments. Due to the inadequacy of policies and procedures that would ensure that Fitzsimons would notify the State agency and refund any overpayments, we are setting aside, for adjudication by the State agency, the remaining credit balances at that facility: credit balances that we did not review and that totaled \$15,321 (\$7,661 Federal share) in potentially unallowable costs.

In our review of the accounts in Fitzsimons' accounting records, we determined that \$14,534 (\$7,267 Federal share) were not actually overpayments. These funds were included in Fitzsimons' accounting records in error.

## **RECOMMENDATIONS**

We recommend that the State agency:

- recover from Fitzsimons the \$87,430 (\$43,715 Federal share) of Medicaid overpayments and refund the \$43,715 to the Federal Government;

- work with Fitzsimons to evaluate the remaining credit balances that we did not review and determine what portion (if any) of the \$15,321 (\$7,661 Federal share) was due to Medicaid overpayments, and then collect that portion and refund the Federal share to the Federal Government; and
- ensure that Fitzsimons develops, implements, documents, and maintains written policies and procedures to identify outstanding Medicaid credit balances and to notify the State agency of these credit balances in a timely manner.

## **STATE AGENCY COMMENTS**

In written comments on our draft report, the State agency concurred with our recommendations. The State agency's comments appear in their entirety as the Appendix.

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## **INTRODUCTION**

### **BACKGROUND**

#### **Medicaid Program**

Pursuant to Title XIX of the Social Security Act, 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. At the Federal level, the Centers for Medicare & Medicaid Services (CMS) administers the 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. In Colorado, the Department of Health Care Policy and Financing (State agency) administers the State's Medicaid program in accordance with its CMS-approved State plan.

#### **Federal Reimbursement and Medicaid Credit Balances**

Providers of Medicaid services, such as nursing facilities, submit claims to the State agency in order to receive compensation for the services they provide to Medicaid beneficiaries. The State agency processes and pays the claims. The Federal Medical Assistance Percentage specifies the percentage of each claim to be reimbursed by Federal funds (this reimbursement is commonly referred to as the Federal share) and is determined pursuant to 42 CFR § 433.10.

Credit balances occur when the Federal reimbursement that a provider receives for services provided to a Medicaid beneficiary exceeds the charges earned, for example when a provider bills Medicaid for more days than the patient was at the facility. In such cases, the provider should return the existing overpayment to the Medicaid program, which pursuant to 42 CFR § 433.139 is the payer of last resort.

To avoid abuse of the Medicaid program, sound fiscal and business practices require provider repayment of identified overpayments within a reasonable period of time. Federal regulations require States to adjust any outstanding credit balances within 60 days after notification by a provider that a credit balance exists. The Code of Colorado Regulations at 10 CCR 2505-10 § 8.076.1 defines abuse of the Medicaid program as provider practices that are inconsistent with sound fiscal or business practices, to include failure to repay or make arrangements to repay overpayments or payments made in error.

#### **Colorado State Veterans Nursing Home at Fitzsimons**

Colorado State Veterans Nursing Home at Fitzsimons (Fitzsimons) is a 180-bed nursing home located in Aurora, Colorado, that participates in the Medicaid program. It is one of five State-run veterans nursing homes in Colorado.

## **OBJECTIVE, SCOPE, AND METHODOLOGY**

### **Objective**

Our objective was to determine whether the Medicaid credit balances recorded in Fitzsimons' accounting records for patient services constituted overpayments that should have been returned to the Medicaid program pursuant to Federal and State requirements.

### **Scope**

We identified \$117,285 (\$58,643 Federal share) which comprised the 77 accounts in Fitzsimons' accounting records whose net Medicaid credit balances were, as of January 31, 2009, outstanding over 60 days. We selected 26 of the 77 accounts totaling \$101,964 (\$50,982 Federal share) for detailed testing.

We did not review the overall internal control structure at either Fitzsimons or the State agency because our objective did not require us to do so. Rather, we limited our review of internal controls to obtaining an understanding of the policies and procedures that Fitzsimons used to review credit balances and report overpayments to the Medicaid program.

We performed our fieldwork from January to March 2009 at Fitzsimons in Aurora, Colorado.

### **Methodology**

To accomplish our objective, we:

- researched and reviewed Federal and State requirements pertaining to Medicaid credit balances;
- identified and reconciled Fitzsimons' Medicaid credit balances to its accounting records as of January 31, 2009;
- reconciled Fitzsimons' January 31, 2009, credit balance list to the accounts receivable records, and reconciled the accounts receivable records to the general ledger;
- judgmentally selected and tested 26 credit balance accounts that were outstanding over 60 days, that had Medicaid listed as a payer, and that had credit balances greater than \$1,000;
- reviewed patient payment data, Medicaid claim forms and remittance advices, patient accounts receivable detail, and additional supporting documentation for each of the judgmentally selected credit balance accounts; and
- coordinated our audit with officials from the State agency.

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

## **FINDINGS AND RECOMMENDATIONS**

Medicaid credit balances recorded in Fitzsimons' accounting records for patient services included \$87,430 (\$43,715 Federal share) in unallowable overpayments that should have been returned to the Medicaid program pursuant to Federal and State requirements. These Medicaid credit balances also included \$15,321 (\$7,661 Federal share) in potentially unallowable overpayments that may, subject to further evaluation by the State agency, have to be returned to the Medicaid program.

Fitzsimons has taken steps to identify and repay some of its outstanding Medicaid credit balances. In 2007 and 2008 it repaid over \$75,000 of outstanding Medicaid overpayments to the State agency. However, Fitzsimons still had a large backlog of outstanding credit balances that had not been addressed as of January 31, 2009. Some of these outstanding Medicaid credit balances were associated with billings that occurred over three years ago. As a result, Fitzsimons did not repay Medicaid overpayments totaling \$87,430 (\$43,715 Federal share) to the Medicaid program in a reasonable time period in accordance with Federal and State Medicaid requirements.

These errors occurred because Fitzsimons had inadequate policies and procedures in place to ensure the timely reimbursement of Medicaid overpayments. Specifically, Fitzsimons did not always have policies and procedures in place to:

- regularly review the Resident Accounts Receivable Aging Report to identify and confirm outstanding Medicaid credit balances that were payable to the State agency and
- notify the State agency regarding outstanding Medicaid credit balances that were due and payable.

Furthermore, Fitzsimons officials confirmed that most of the credit balances over 60 days old were Medicaid overpayments. Due to the inadequacy of policies and procedures that would ensure that Fitzsimons would notify the State agency and refund any overpayments, we are setting aside, for adjudication by the State agency, the remaining credit balances at that facility: credit balances that we did not review and that totaled \$15,321 (\$7,661 Federal share) in potentially unallowable costs.

In our review of the accounts in Fitzsimons' accounting records, we determined that \$14,534 (\$7,267 Federal share) were not actually overpayments. These funds were included in Fitzsimons' accounting records in error.

## **FEDERAL AND STATE MEDICAID REQUIREMENTS**

42 U.S.C. § 1396(b)(d)(2)(C) states that, “when an overpayment is discovered, which was made by a State to a person or other entity, the State shall have a period of 60 days in which to recover or attempt to recover such overpayment before adjustment is made in the Federal payment to such State on account of such overpayment . . . . [T]he adjustment in the Federal payment shall be made at the end of the 60 days, whether or not recovery was made.”

Pursuant to the implementing regulations for this legislation, 42 CFR § 433, subpart F, “Refunding the Federal Share of Medicaid Overpayments to Providers,” States must adjust any outstanding credit balances.

In accordance with these Federal regulations, the State agency must adjust the applicable claim or recover the amount of the Medicaid overpayment from the provider within 60 days of notification. The Code of Colorado Regulations at 10 CCR 2505-10 § 8.076.3 states that identified overpayments to a provider are recoverable “. . . through a repayment agreement with the Provider, by offsetting the amount owed against current and future claims of the Provider, through litigation, or by any other appropriate action within the [State agency’s] legal authority.”

The Code of Colorado Regulations at 10 CCR 2505-10 § 8.076.1 defines abuse of the Medicaid program as provider practices that are inconsistent with sound fiscal or business practices, to include failure to repay or make arrangements to repay overpayments or payments made in error. To avoid abuse of the Medicaid program, sound fiscal and business practices require provider repayment of identified overpayments within a reasonable period of time. Although the State regulations contain this language, the State of Colorado does not have any regulations requiring providers to refund Medicaid credit balances within a specified timeframe.

## **UNALLOWABLE MEDICAID OVERPAYMENTS**

Medicaid credit balances recorded in Fitzsimons’ accounting records for patient services included \$87,430 (\$43,715 Federal share) in unallowable overpayments that should have been returned to the Medicaid program pursuant to Federal and State requirements. Our judgmental sample identified 77 cases of Medicaid credit balances at Fitzsimons that were, as of January 31, 2009, over 60 days old.

These overpayments occurred because Fitzsimons did not properly maintain patient census data and patient fiscal records and conducted erroneous billing for a non-Medicaid beneficiary. Sometimes the credit balances were outside the control of the nursing facility because the appropriate county did not verify the beneficiary’s income or determine the patient payment amount in a timely manner.

The types of issues described above can be improved, but the normal operations of the nursing home facility are such that overpayments will occur. Accordingly, this review focused on whether Fitzsimons had adequate policies and procedures in place to notify and repay the State agency in a timely manner once a Medicaid overpayment had been identified.

In the last two years Fitzsimons repaid over \$75,000 to the State agency for Medicaid overpayments that had been outstanding for over a year. Fitzsimons made the repayments by completing hardcopy forms and mailing them to the State agency. According to Fitzsimons staff members, Fitzsimons followed this procedure because it did not have sufficient resources to review Medicaid payments, and return overpayments to the State agency, in a more timely manner. Instead, Fitzsimons made repayments by mail, in hardcopy, one year after the overpayment had occurred. (Fitzsimons staff informed us that the State agency would not accept hardcopy repayments by mail until a year after the overpayment occurred.) However, repayments can be filed electronically, on the State agency's electronic portal, on a more timely basis. Fitzsimons' attempts to repay these Medicaid overpayments were sporadic, and large backlogs of such credits were processed on only a few occasions when the staff had the available time to perform this task. As a result, Fitzsimons did not repay Medicaid overpayments totaling \$87,430 (\$43,715 Federal share) to the Medicaid program in a reasonable time period in accordance with Federal and State Medicaid requirements.

### **POTENTIALLY UNALLOWABLE MEDICAID OVERPAYMENTS**

Medicaid credit balances recorded in Fitzsimons' accounting records for patient services included \$15,321 (\$7,661 Federal share) in potentially unallowable overpayments that may, subject to further evaluation by the State agency, have to be returned to the Medicaid program.

During our fieldwork, Fitzsimons officials confirmed that most of the credit balances over 60 days old—that is, most of the credit balances above and beyond the 26 that we judgmentally selected for review—were Medicaid overpayments. Due to the inadequacy of policies and procedures that would ensure that Fitzsimons would notify the State agency and refund any overpayments, we are setting aside, for adjudication by the State agency, the remaining credit balances at that facility: credit balances that we did not review and that totaled \$15,321 (\$7,661 Federal share) in potentially unallowable costs.

### **INADEQUATE POLICIES AND PROCEDURES**

Fitzsimons had inadequate policies and procedures in place to ensure the timely reimbursement of Medicaid overpayments pursuant to Federal and State requirements. Specifically:

- Fitzsimons did not always have policies and procedures in place to regularly review the Resident Accounts Receivable Aging Report to identify and confirm outstanding Medicaid credit balances that were payable to the State agency.
- Fitzsimons did not always have policies and procedures in place to notify the State agency regarding outstanding Medicaid credit balances that were due and payable.
- Fitzsimons had not documented its current policies and procedures to identify and confirm outstanding Medicaid credit balances or to notify the State agency of such balances.

## **RECOMMENDATIONS**

We recommend that the State agency:

- recover from Fitzsimons the \$87,430 (\$43,715 Federal share) of Medicaid overpayments and refund the \$43,715 to the Federal Government;
- work with Fitzsimons to evaluate the remaining credit balances that we did not review and determine what portion (if any) of the \$15,321 (\$7,661 Federal share) was due to Medicaid overpayments, and then collect that portion and refund the Federal share to the Federal Government; and
- ensure that Fitzsimons develops, implements, documents, and maintains written policies and procedures to identify outstanding Medicaid credit balances and to notify the State agency of these credit balances in a timely manner.

## **STATE AGENCY COMMENTS**

In written comments on our draft report, the State agency concurred with our recommendations. The State agency's comments appear in their entirety as the Appendix.

# **APPENDIX**



**COLORADO DEPARTMENT OF HEALTH CARE POLICY**

1570 Grant Street, Denver, CO 80203-1818 • (303) 866-2993 • (303) 866-4411 Fax • 303- 866-4411

Bill Ritter, Jr., Governor • Joan Henneberry, Executive Director

July 16, 2009

Mr. Patrick J. Cogley, Regional Inspector General  
Office of the Inspector General  
601 E. 12<sup>th</sup> Street, Room 0429  
Kansas City, MO 64106

Report Nos. A-07-09-02751, A-07-09-02755, A-07-09-02756

Dear Mr. Cogley

Please find the Department of Health Care Policy and Financing's responses to the 3 Medicaid Provider Credit Balance Audit Reports released in June 2009.

If you have any questions or comments, please feel free to contact the Department's Audit Coordinator, Laurie Simon at 303-866-2590 or [laurie.simon@state.co.us](mailto:laurie.simon@state.co.us).

Sincerely,

A handwritten signature in cursive script, appearing to read 'Joan Henneberry'.

Joan Henneberry  
Executive Director

JH:las

cc: HCPF Executive Director's Office  
Jennifer Evans, Administration and Operations Office Director  
Laurie Simon, HCPF Audit Coordinator  
James Korn, OIG Audit Manager

**The Department of Health Care Policy and Financing's  
Responses to Office of the Inspector General's  
Medicaid Credit Balance Audit Recommendations  
(Fitzsimons)**

**July 16, 2009**

Recommendation #1: Recover from Fitzsimons the \$87,430 (\$43,715 Federal share) of Medicaid overpayments and refund the \$43,715 to the Federal Government;

**Health Care Policy and Financing's Response to #1:**

**Concur.**

**The Department agrees with the need to recover the identified overpayments represented by credit balances greater than 60 days old in Fitzsimon's accounting records, and will communicate with Fitzsimons to obtain this recovery.**

Recommendation #2: Work with Fitzsimons to evaluate the remaining credit balances that we did not review and determine what portion (if any) of the \$15,321 (\$7,661 Federal share) was due to Medicaid overpayments, and then collect that portion and refund the Federal share to the Federal Government.

**Health Care Policy and Financing's Response to #2:**

**Concur.**

**The Department will work with Fitzsimons to determine if other credit balances over 60 days old exist which represent overpayments from the Department, and will recover the applicable overpayments.**

Recommendation #3: Ensure that Fitzsimons develops, implements, documents, and maintains written policies and procedures to identify outstanding Medicaid credit balances and to notify the State agency of these credit balances in a timely manner.

**Health Care Policy and Financing's Response to #3:**

**Concur.**

**The Department will work with Fitzsimons to ensure that the facility understands the requirement to refund overpayments to the Department on a timely basis, and to then ensure Fitzsimons adopts appropriate written policies and procedures to this effect.**

**Implementation dates for all 3 recommendations is August 2009.**