

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**MARYLAND CLAIMED MEDICAID
ADMINISTRATIVE COSTS FOR UNALLOWABLE
REMEDIAL AND TRAINING SERVICES FOR
THE MARYLAND POISON CENTER**

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**Stephen Virbitsky
Regional Inspector General**

**September 2012
A-03-12-00204**

Office of Inspector General

<http://oig.hhs.gov>

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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 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 Maryland, the Department of Health and Mental Hygiene (State agency) administers the Medicaid program.

Section 1903(a) of the Act permits States to claim Federal reimbursement for Medicaid administrative costs. These costs must be “for the proper and efficient administration of the State plan.” In a December 1994 letter to State Medicaid directors, CMS (formerly the Health Care Financing Administration) clarified its position on State claims for administrative costs, stating that “allowable claims ... must be directly related to the administration of the Medicaid program.” CMS’s letter included a listing of allowable administrative activities. The list was not all inclusive, but stated that claims for administrative costs cannot “reflect the cost of providing a direct medical or remedial service, such as immunizations or psychological counseling.” In addition, CMS stated that States “may not include funding for a portion of general public health initiatives that are made available to all persons, such as public health education campaigns ...” and “may not include the overhead costs of operating a provider facility, such as the supervision and training of providers.”

In calendar years (CY) 2009 through 2011, the State agency claimed \$860 million in Medicaid administrative costs, of which \$690 million was claimed as “Other Financial Participation.” We are conducting a series of audits that address unidentified Medicaid administrative costs claimed as Other Financial Participation.

The Maryland Poison Center (Poison Center) provides emergency poison triage and treatment information through a telephone hotline staffed by pharmacists and nurses certified by the American Association of Poison Control Centers. The Poison Center also provides public education to increase awareness of poisons in the home, business, and schools and to identify steps in poison prevention, and professional education to help clinicians assess and treat poison-related cases.

The Poison Center has been a service program of the University of Maryland School of Pharmacy since 1972. In January 1994, the State agency asked CMS for permission to claim Poison Center services provided to Medicaid beneficiaries as a Medicaid administrative cost. In February 1994, CMS granted its approval to the State agency for its claiming methodology. In CYs 2009 through 2011, the State agency claimed \$728,915 (Federal share) in Poison Center costs as a Medicaid administrative cost.

OBJECTIVE

Our objective was to determine whether the State agency complied with Federal requirements when it claimed Medicaid administrative costs for the Poison Center.

SUMMARY OF FINDING

The State agency did not comply with Federal requirements when it claimed Poison Center costs totaling \$728,915 (Federal share). The claimed costs were for unallowable remedial and training services and not for the administration of the Medicaid program. In February 1994, CMS approved the State agency's methodology for claiming Poison Control costs even though the costs did not relate to administration of the Medicaid program. However, in its subsequent December 1994 letter to all State Medicaid directors, CMS clarified its position on State claiming of Medicaid administrative costs and specifically excluded remedial services, public education, and provider training from allowable costs. Accordingly, the State agency should have discontinued claiming administrative costs for the Poison Center based on CMS' general instructions in the December 1994 letter.

RECOMMENDATION

We recommend that the State agency discontinue all future claims for Poison Center costs.

STATE AGENCY COMMENTS

In its written comments on our report, the State agency said that, going forward, it would comply with CMS's directions regarding the claiming of Poison Center costs.

The State agency's comments are presented in their entirety as Appendix B.

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INTRODUCTION

BACKGROUND

Medicaid Program

Pursuant to Title XIX of the Social Security Act (the 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 Maryland, the Department of Health and Mental Hygiene (State agency) administers the Medicaid program.

Section 1903(a) of the Act permits States to claim Federal reimbursement for Medicaid administrative costs. These costs must be “for the proper and efficient administration of the State plan.” Most Medicaid administrative costs are reimbursed at the 50-percent rate (section 1903(a)(7) of the Act). However, the State agency may receive enhanced Federal funding for some administrative costs, including 75 percent for skilled professional medical personnel. States claim medical assistance and administrative costs on Form CMS-64, Quarterly Medicaid Statement of Expenditures for the Medical Assistance Program (Form CMS-64).

In a December 1994 letter to State Medicaid directors, CMS¹ clarified its position on State claims for administrative costs, stating that “allowable claims ... must be directly related to the administration of the Medicaid program.” CMS’s letter provided a list of allowable administrative activities, but it was not all inclusive. The letter also stated that claims for administrative costs cannot “reflect the cost of providing a direct medical or remedial service, such as immunizations or psychological counseling.” In addition, CMS’s letter stated that States “may not include funding for a portion of general public health initiatives that are made available to all persons, such as public health education campaigns ...” and “may not include the overhead costs of operating a provider facility, such as the supervision and training of providers.”

Maryland Poison Center

The Maryland Poison Center (Poison Center) provides emergency poison triage and treatment information through a telephone hotline staffed by pharmacists and nurses certified by the American Association of Poison Control Centers. In 2010, the Poison Center received 62,820 calls to its hotline, including 35,895 reports of human exposure, 24,944 requests for information, and 1,981 reports of exposures in animals. The Poison Center provides public education to increase awareness of poisons in the home, business, and schools and to identify steps in poison prevention and professional education to help clinicians assess and treat poison-related cases.

¹ The letter was issued by the Health Care Financing Administration, which was renamed CMS on July 1, 2001.

The Poison Center has been a service program of the University of Maryland School of Pharmacy since 1972. In January 1994, the State agency asked CMS for permission to claim Poison Center services provided to Medicaid beneficiaries as a Medicaid administrative cost. In February 1994, CMS granted its approval to the State agency for its claiming methodology.

Audits of Medicaid Administrative Costs

In calendar years (CY) 2009 through 2011, the State agency claimed \$860 million in Medicaid administrative costs, of which \$690 million was claimed as "Other Financial Participation." This is one in a series of reports addressing State agencies' claims for Medicaid administrative costs claimed as "Other Financial Participation." The appendix lists the three previously issued reports, which focused on programs in Pennsylvania that did not comply with the Federal requirements for claiming Medicaid administrative costs.

OBJECTIVE, SCOPE, AND METHODOLOGY

Objective

Our objective was to determine whether the State agency complied with Federal requirements when it claimed Medicaid administrative costs for the Poison Center.

Scope

We reviewed the State agency's claims totaling \$728,915 (Federal share) in Poison Center costs for calendar years 2009 through 2011. We did not review the overall internal control structure of the State agency. We limited our review to those controls related to the State agency's methodology for claiming Poison Center costs.

We performed our fieldwork at the State agency in Baltimore, Maryland, in March 2012.

Methodology

To accomplish our objective, we:

- reviewed Federal laws and guidance;
- reconciled the State agency's claim for Other Financial Participation costs on Form CMS-64 to its accounting records;
- reviewed Maryland's public assistance cost allocation plan to determine if the State agency received approval for claiming costs reported under Other Financial Participation;
- reviewed the State agency's supporting documentation for its claim of Poison Center costs; and
- discussed our findings with CMS and State agency officials.

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

FINDING AND RECOMMENDATION

The State agency did not comply with Federal requirements when it claimed Poison Center costs totaling \$728,915 (Federal share). The claimed costs were for unallowable remedial and training services and not for the administration of the Medicaid program. In February 1994, CMS approved the State agency's methodology for claiming Poison Control costs even though the costs did not relate to administration of the Medicaid program. However, in a subsequent December 1994 letter to all State Medicaid directors, CMS clarified its position on State claims of Medicaid administrative costs and specifically excluded remedial services, public education, and provider training from allowable costs. Accordingly, the State agency should have discontinued claiming administrative costs for the Poison Center based on CMS' general instructions in the December 1994 letter.

FEDERAL REQUIREMENTS

Section 1903(a) of the Act permits States to claim Federal reimbursement for Medicaid administrative costs. These costs must be "for the proper and efficient administration of the State plan." CMS's December 1994 letter to State Medicaid directors (#122094) clarifies CMS's policy concerning State claims for administrative costs. CMS states: "We have consistently held that allowable claims under this authority must be directly related to the administration of the Medicaid program."

Although not all inclusive, CMS's list of allowable Medicaid administrative activities provided for Medicaid eligibility determinations, Medicaid outreach, prior authorizations for Medicaid services, third-party liability activities, and utilization reviews. In addition, CMS stated that allowable administrative costs "cannot reflect the cost of providing a direct medical or remedial service, such as immunizations or psychological counseling." CMS also stated that States "may not include funding for a portion of general public health initiatives that are made available to all persons, such as public health education campaigns ..." and "may not include the overhead costs of operating a provider facility, such as the supervision and training of providers."

POISON CENTER COSTS CLAIMED

The State Agency's Methodology for Claiming Poison Center Costs

In February 1994, CMS approved the State agency's proposed methodology to allocate Poison Control costs. Each quarter, the Poison Center asks a sample number of callers whether they are Medicaid beneficiaries. The Poison Center estimates the number of Medicaid beneficiaries served for the quarter based on the number of Medicaid respondents as a percentage of total callers in the sample. (For CYs 2009 through 2011, estimates for Medicaid callers ranged from

8.41 percent to 17.99 percent.) The Poison Center applies the percentage to the costs of the program and submits to the State agency its claim for the Medicaid portion of the costs.

The State Agency's Claims for Poison Center Costs

In CYs 2009 through 2011, the State agency claimed \$728,915 (Federal share) in Poison Center costs as Medicaid administrative costs: \$332,235 (Federal share) claimed on Form CMS-64.10, line 29, Other Financial Participation, and \$396,680 (Federal share) claimed at the enhanced rate on Form CMS-64.10, line 3A, SPMP [skilled professional medical personnel] – Single State Agency.

The State agency's claims did not reflect administrative costs as defined in the Act and later clarified by CMS in its letter to State Medicaid directors. Rather, Poison Center costs were for hotline operation and public and professional education. CMS explicitly prohibits claiming costs for remedial services and training, such as that supplied by the Poison Center, as administrative costs because they are not "for the proper and efficient administration of the [Medicaid] State plan."

The State agency initially claimed the unallowable costs because CMS granted its approval in February 1994. However, CMS later clarified its position on State claims of Medicaid administrative costs. In a December 1994 letter to all State Medicaid directors, CMS stated that claims for administrative costs may not include remedial services, public education, or provider training. Accordingly, the State agency should have discontinued its claims for the Poison Center's unallowable remedial and training services.

RECOMMENDATION

We recommend that the State agency discontinue all future claims for Poison Center costs.

STATE AGENCY COMMENTS

In its written comments on our report, the State agency said that, going forward, it would comply with CMS's directions regarding the claiming of Poison Center costs.

The State agency's comments are presented in their entirety as Appendix B.

APPENDIXES

APPENDIX A: PREVIOUSLY ISSUED REPORTS RELATED TO THIS AUDIT

Review of Medicaid Administrative Costs Claimed for the Pennsylvania Department of Aging's Healthy Steps Program (A-03-10-00205, issued July 13, 2011).

Review of Medicaid Administrative Costs Claimed for the Pennsylvania Department of Aging's Direct Care Worker Initiative (A-03-10-00206, issued July 14, 2011).

Pennsylvania Claimed Medicaid Administrative Costs for Provider Training Under Its Restraint Reduction Initiative (A-03-11-00209, issued July 24, 2012).



STATE OF MARYLAND
DHMH

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August 30, 2012

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Re: Report Number: A-03-12-00204

Dear Mr. Virbitsky:

Thank you for the opportunity to comment on the above-referenced audit report, which addresses the appropriateness of claims made for Title XIX Medicaid matching funds on certain activities performed by the Maryland Poison Center, a unit of the University of Maryland School of Pharmacy, in the operation of its telephone hotline.

The audit reviewed claims made by the State on behalf of the Maryland Poison Center in Calendar Years 2009, 2010 and 2011. The reviewed claims are cited as being unallowable because they relate to remedial and training services, and not for the administration of the Medicaid program. The report recognizes Centers for Medicare and Medicaid Services (CMS) approval in February 1994 of the methodology to claim these costs, then refers to a subsequent (December 1994) State Medicaid Directors letter that specifically excluded remedial services, public education and provider training from allowable costs - concluding that the State agency should have discontinued claiming, subsequent to the December 1994 letter.

The audit report recommends that the State agency discontinue all future claims for Maryland Poison Center costs.

Department's Response:

It is certainly the Department's intention to comply with Centers for Medicare and Medicaid Services (CMS) guidelines regarding the claiming of Medicaid Title XIX matching funds. We understand that the recommendations of this report will be

Mr. Stephen Virbitsky

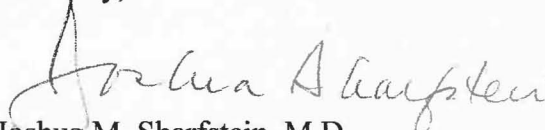
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forwarded to the CMS for their consideration. We will comply with their directions, going forward, regarding this claiming activity.

The Maryland Poison Center makes a valuable contribution toward safeguarding the health and well-being of Marylanders. The operation of the telephone hotline minimizes both the severity and cost of incidents involving toxic substances, including those incidents involving Maryland's Medicaid-eligible population. Going forward, we would like to explore with CMS other options that may be available in support of the Maryland Poison Center's mission, within existing guidelines.

Please contact Thomas V. Russell, Inspector General, at 410-767-5862 if you have any questions.

Sincerely,



Joshua M. Sharfstein, M.D.

Secretary

cc: Patrick Dooley, DHMH, Chief of Staff
Charles Milligan, DHMH, Deputy Secretary, Health Care Financing
Thomas V. Russell, DHMH, Inspector General
Ellwood Hall, DHMH, Assistant Inspector General
Audrey Parham-Stewart, DHMH, Director, MCPA Finance
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