

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**WASHINGTON RECEIVED
MILLIONS IN
UNALLOWABLE BONUS PAYMENTS**

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Office of Inspector General

<https://oig.hhs.gov>

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OFFICE OF AUDIT SERVICES FINDINGS AND OPINIONS

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EXECUTIVE SUMMARY

Washington received more than \$19.4 million in unallowable performance bonus payments under the Children's Health Insurance Program Reauthorization Act for fiscal years 2009 through 2012.

WHY WE DID THIS REVIEW

The Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA) directly affects both the Children's Health Insurance Program and Medicaid. Under CHIPRA, Congress appropriated \$3.225 billion for qualifying States to receive performance bonus payments (bonus payments) for Federal fiscal years (FYs) 2009 through 2013 to offset the costs of increased enrollment of children in Medicaid. In a previous audit of CHIPRA bonus payments in another State (A-04-12-08014), we found millions of dollars in unallowable bonus payments; therefore, we identified CHIPRA bonus payments as a high-risk area.

We reviewed the bonus payments that Washington received for FYs 2009 through 2012 because preliminary analysis indicated inconsistencies between the enrollment of children in Medicaid that Washington reported when requesting bonus payments and the enrollment reflected in the Medicaid Statistical Information System (MSIS) maintained by the Centers for Medicare & Medicaid Services (CMS). Washington received more than \$61.2 million in bonus payments for the FYs we reviewed.

The objective of our audit was to determine whether the bonus payments that Washington received were allowable in accordance with Federal requirements.

BACKGROUND

CMS administers the Medicaid program at the Federal level and is the agency responsible for determining whether a State meets the requirements to receive a bonus payment and, if so, what the amount of a State's bonus payment should be. CMS makes its determinations, in part, on the basis of Medicaid enrollment information that the States provide in their requests for bonus payments. The Washington State Health Care Authority (State agency) administers Washington's Medicaid program and is the agency that requested the bonus payments Washington received for FYs 2009 through 2012 (audit period).

A State is eligible for a bonus payment if, among other requirements, it increases its current enrollment of qualifying children (current enrollment) above the baseline enrollment of qualifying children for a given year as specified in CMS guidance.

WHAT WE FOUND

Some of the bonus payments that Washington received for the audit period were not allowable in accordance with Federal requirements. Most of the data used in Washington's bonus payment calculations was in accordance with Federal requirements. However, the State agency overstated its FYs 2009 through 2012 current enrollment in its bonus requests to CMS because it included

individuals who did not qualify because of their basis-of-eligibility (BOE) code. As a result, CMS overpaid Washington \$19,484,644 in bonus payments.

WHAT WE RECOMMEND

We recommend that the State agency:

- refund \$19,484,644 to the Federal Government and
- ensure that future requests for CHIPRA bonus payments include only qualifying children to comply with Federal requirements.

STATE AGENCY COMMENTS

In written comments on our draft report, the State agency disagreed with our findings. State agency officials said that they believed that the bonus payments received for the audit period were allowable in accordance with Federal requirements and that the agency's methodology for reporting current enrollment of qualifying children was correct and complied with Federal requirements.

The State agency said that CMS guidance does not require the use of BOE codes in determining the current enrollment. Instead, according to the State agency, the current enrollment is determined entirely based on the number of "qualifying children."

OFFICE OF INSPECTOR GENERAL RESPONSE

We disagree with the State agency's comment that its methodology for reporting current enrollment of qualifying children is correct and that CMS guidance does not require the use of BOE codes in determining the current enrollment. The State agency's current enrollment calculations did not follow the same logic and basis that CMS used to develop the baseline enrollment. As a result, the State agency's approach overstated current enrollment because it included enrollment categories not reflected in CMS's baseline enrollment.

We maintain that our findings and recommendations are correct.

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INTRODUCTION

WHY WE DID THIS REVIEW

The Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA) directly affects both the Children's Health Insurance Program and Medicaid. Under CHIPRA, Congress appropriated \$3.225 billion for qualifying States to receive performance bonus payments (bonus payments) for Federal fiscal years (FYs) 2009 through 2013 to offset the costs of increased enrollment of children in Medicaid. In a previous audit of CHIPRA bonus payments in another State,¹ we found millions of dollars in unallowable bonus payments; therefore, we identified CHIPRA bonus payments as a high-risk area.

We reviewed the bonus payments that Washington received for FYs 2009 through 2012 because preliminary analysis indicated inconsistencies between the enrollment of children in Medicaid that Washington reported when requesting bonus payments and the enrollment reflected in the Medicaid Statistical Information System (MSIS) maintained by the Centers for Medicare & Medicaid Services (CMS). Washington received more than \$61.2 million in bonus payments for the FYs we reviewed.

OBJECTIVE

Our objective was to determine whether the bonus payments that Washington received were allowable in accordance with Federal requirements.

BACKGROUND

The Medicaid Program: How It Is Administered

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. 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. CMS administers the Medicaid program at the Federal level. The Washington State Health Care Authority (State agency) administers Washington's Medicaid program.

Washington's Medicaid Management Information System and CMS's Medicaid Statistical Information System

Section 235 of the Social Security Amendments of 1972, P.L. No. 92-603, provided for 90-percent Federal financial participation (FFP) for the design, development, or installation and 75-percent FFP for the operation of eligible State mechanized claims processing and information retrieval systems. For Medicaid purposes, the mechanized claims processing and information retrieval system is the Medicaid Management Information System (MMIS).

¹ *Alabama Received Millions in Unallowable Performance Bonus Payments Under the Children's Health Insurance Program Reauthorization Act* (A-04-12-08014, issued August 27, 2013).

The MMIS is an integrated group of procedures and computer processing operations (subsystems) designed to improve Medicaid program and administrative cost controls, service to recipients and providers, operations of claims control and computer capabilities, and management reporting for planning and control.

Under the Balanced Budget Act of 1997, P.L. No. 105-33, States are required to submit Medicaid eligibility and claims data to CMS through the MSIS. The purpose of the MSIS is to collect, manage, analyze, and disseminate information on eligibility, beneficiaries, utilization, and payment for services covered by State Medicaid programs. CMS uses MSIS data to produce Medicaid program characteristics and utilization information. Some of the information that States report for Medicaid-eligible individuals are date of birth, race, sex, and basis of eligibility (BOE).

Bonus Payments

CHIPRA, P.L. No. 111-3, directly affects both the Children's Health Insurance Program under Title XXI of the Social Security Act (the Act) and Medicaid under Title XIX of the Act. Under CHIPRA, qualifying States may receive bonus payments for FYs 2009 through 2013 to offset the costs of increased enrollment of children in Medicaid. A State is eligible for a bonus payment if it increased its current enrollment of qualifying children (current enrollment) above the baseline enrollment of qualifying children (baseline enrollment) for a given year as specified in CMS guidance. A State must also have implemented at least five of the Medicaid enrollment and retention provisions specified in CHIPRA.

CMS is responsible for determining whether a State meets the requirements to receive a bonus payment and, if so, the amount of the bonus payment. CMS makes its determinations, in part, on the basis of Medicaid enrollment information that the State provided in its requests for bonus payments. The State agency requested the bonus payments that Washington received for FYs 2009 through 2012. Appendix A contains the details of Washington's current enrollment calculations for these FYs.

HOW WE CONDUCTED THIS REVIEW

We reviewed the bonus payments that Washington received for FYs 2009 through 2012 (audit period), totaling \$7,861,411, \$20,649,662, \$19,014,483, and \$13,763,513, respectively. Our review focused on verifying the accuracy of enrollment information used in the bonus payment calculations and ensuring that the information used complied with Federal requirements. We neither assessed the State agency's internal control structure beyond what was necessary to meet our objective nor reviewed the State agency's determinations of Medicaid eligibility. Also, we did not review whether the State agency successfully implemented at least five of the Medicaid enrollment and retention provisions because we determined that there was a low risk of noncompliance.

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 objectives.

Appendix B contains the details of our scope and methodology, and Appendix C contains the Federal requirements related to bonus payments.

FINDINGS

Some of the bonus payments that Washington received for the audit period were not allowable in accordance with Federal requirements. Most of the data used in Washington's bonus payment calculations was in accordance with Federal requirements. However, the State agency overstated its FYs 2009 through 2012 current enrollment in its bonus requests to CMS because it included individuals who did not qualify because of their BOE code. As a result, CMS overpaid Washington \$19,484,644 in bonus payments.

THE STATE AGENCY DID NOT CALCULATE CURRENT ENROLLMENT IN ACCORDANCE WITH FEDERAL REQUIREMENTS

The State agency reported CHIPRA current enrollments of 602,925, 656,439, 676,973, and 689,958 for FYs 2009 through 2012, respectively. According to CMS guidance,² a State should calculate CHIPRA current enrollment using the same State institutional data sources, such as the State's MMIS, that it uses for reporting under the MSIS.

Furthermore, the State's current enrollment should include only individuals whom the State identifies and reports as having a BOE of "child" in the MSIS. Specifically, CMS guidance defines BOE codes of "child" as follows:

- Code 4: Child (not Child of Unemployed Adult, not Foster Care Child);
- Code 6: Child of Unemployed Adult (optional); and
- Code 8: Foster Care Child.

CMS established this guidance to ensure that States consistently use the same information and basis (i.e., BOE codes) that CMS uses to develop States' baseline enrollment.³

The State agency used the same State institutional data source to calculate its current enrollment that it used for MSIS reporting. However, the State agency did not follow CMS guidance to include in its CHIPRA current enrollment only individuals with a BOE of "child" in the MSIS. In addition to the above three BOE categories, the State agency incorrectly included individuals from other BOEs, such as BOE code 2, "Blind and Disabled," in its reports of CHIPRA current enrollments to CMS, which inflated its current enrollment numbers.

² CMS, SHO Letter #09-015, CHIPRA #10, and CMS BP-Clarification3.docx, October 26, 2009.

³ The baseline enrollment level for a State is based on a formula that considers such factors as the levels of qualifying children under the Medicaid program and various adjustment factors that account for population growth.

Had it followed Federal requirements, the State agency would have reported the correct number for current enrollment for FYs 2009 through 2012 as depicted in Table 1.

Table 1: Washington Medicaid Enrollment

Current Enrollment⁴	FY 2009	FY 2010	FY 2011	FY 2012
State-reported number	602,925	656,439	676,973	689,958
Correct number	570,244	645,038	672,010	679,245
Overstatement	32,681	11,401	4,963	10,713

WASHINGTON RECEIVED MORE THAN \$19.4 MILLION IN UNALLOWABLE BONUS PAYMENTS

CMS calculated excessive CHIPRA bonus payments to Washington because the State agency overstated its CHIPRA current enrollments for FYs 2009 through 2012. (See Table 1.) As a result, Washington received unallowable bonus payments of \$5,136,424, \$6,553,366, \$2,916,476, and \$4,878,378 for FYs 2009 through 2012, respectively. We recalculated the bonus payments using the correct CHIPRA current enrollments for these FYs and found that Washington should not have received a total of \$19,484,644 in bonus payments for the FYs reviewed (Table 2).

Table 2: Washington Bonus Payments

	FY 2009	FY 2010	FY 2011	FY 2012	Total
Bonus payment received	\$7,861,411	\$20,649,662	\$19,014,483	\$13,763,513	\$61,289,069
Correct bonus payment	2,724,987	14,096,296	16,098,007	8,885,135	41,804,425
Bonus Payment Not Allowed	\$5,136,424	\$6,553,366	\$2,916,476	\$4,878,378	\$19,484,644

RECOMMENDATIONS

We recommend that the State agency:

- refund \$19,484,644 to the Federal Government and
- ensure that future requests for CHIPRA bonus payments include only qualifying children to comply with Federal requirements.

⁴ See Appendix A, Tables 3 and 4, for a monthly detail of the State’s reported current enrollment numbers and our calculated current enrollment numbers.

STATE AGENCY COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE

STATE AGENCY COMMENTS

In written comments on our draft report, the State agency disagreed with our findings. State agency officials said that they believed that the bonus payments received for the audit period were allowable in accordance with Federal requirements and that the agency's methodology for reporting current enrollment of qualifying children was correct and complied with Federal requirements.

The State agency said that CMS guidance does not require the use of BOE codes in determining the current enrollment. Instead, according to the State agency, the current enrollment is determined entirely based on the number of "qualifying children," consistent with the statutory definition. The State agency further said, "More specifically, qualified children are defined as those enrolled in specific eligibility groups as well as children enrolled under a title XIX demonstration." The State agency referred to the following CMS guidance from BP-Clarification3.docx, dated October 26, 2009 (the 2009 guidance):

The calculation of the Bonus Payment for each State is intended to include all child enrollees in each States' Medicaid program that meet the definition of Qualifying Children. In that regard, in the guidance to States we referenced a number of citations in the Medicaid statute which were intended to reflect the eligibility categories for which children might be covered.

Also, in referring to a CMS email dated December 12, 2011, the State agency acknowledged that the "same logic and basis that was used for developing the FY 2007 baseline should be used by each State for submitting the average monthly enrollment for children for the current fiscal year for which the bonus payment is being determined" but stated that this subsequent guidance should not be applied retroactively.

The State agency's comments are included in their entirety as Appendix D.

OFFICE OF INSPECTOR GENERAL RESPONSE

We disagree with the State agency's comment that its methodology for reporting current enrollment of qualifying children is correct and that CMS guidance does not require the use of BOE codes in determining the current enrollment. The State agency's current enrollment calculations did not follow the same logic and basis that CMS used to develop the baseline enrollment. As a result, the State agency's approach overstated current enrollment because it included enrollment categories not reflected in CMS's baseline enrollment.

The 2009 guidance clearly stated that in reporting the current FY 2009 enrollment, States should include a description of the data sources and the methodologies they used to appropriately identify individuals with a BOE of "child," and this same guidance accurately identified the BOE codes associated with "child" as codes 4, 6, or 8. The 2009 guidance also stated, "The

calculation of the Bonus Payment requires establishing for each State a monthly average unduplicated number of qualifying children enrolled in title XIX for FY 2007” (original emphasis).

To establish the FY 2007 baseline of the unduplicated number of qualifying children, the 2009 guidance stated:

[W]e developed the baseline enrollment for each State using all of the “MSIS Coding Categories” for which States report individuals with the “Basis-Of-Eligibility” (BOE) of Child in their Medicaid programs. Again, the purpose was to capture every individual considered to be eligible as a “Child” by States under their Medicaid (title XIX) programs.

Furthermore, the section of the 2009 guidance that the State quoted specifically listed the eligibility categories associated with “child.” The guidance stated:

The MSIS BOE codes associated with “Child” that we used for developing the FY 2007 baseline enrollment are as follows:

- “4 Child (not Child of Unemployed Adult, not Foster Care Child)”
- “6 Child of Unemployed Adult (optional)”
- “8 Foster Care Child”

The guidance clearly stated that the listed eligibility categories were “intended to reflect the eligibility categories for which children **might** be covered” (emphasis added). This same section further states:

We recognize that the FY 2007 baseline enrollment data obtained from MSIS may not represent an exact one-to-one mapping for each of the above statutory eligibility categories. However, as discussed above, the baseline enrollment data represents all individuals identified and reported by each State with a BOE of “child”; we believe this approach appropriately addresses the intent of the statute in a way that is operationally feasible.

Thus, the 2009 guidance makes it clear that BOE codes 4, 6, and 8 were used to establish the baseline enrollment numbers and that the same BOE codes were to be used to calculate the current enrollment numbers.

In regard to the State agency’s comment that subsequent guidance should not be applied retroactively, neither we nor CMS applied the 2009 guidance retroactively. CMS did not change its guidance in its email dated December 12, 2011, but stated, “We will be issuing the FY 2011 Bonus Payments to States by the end of this month, but we wanted to **reiterate** the aspects of the instruction as it relates to the average monthly enrollment for children metric for FY 2011, as provided by your State, **in order to ensure that the metric was developed appropriately**” (emphasis added). This same email further stated, “**The same logic and basis that was used for developing the FY 2007 baseline should be used by each State for**

submitting the average monthly enrollment for children for the current fiscal year for which the bonus payment is being determined” (original emphasis). In its response, the State agency freely admitted that it included blind and disabled individuals, whom we correctly identified as belonging to BOE code 2, in its current enrollment numbers. However, CMS identified BOE codes 4, 6, and 8 as the appropriate codes to be used. Hence, the State agency did not develop its metric appropriately because the State agency included individuals who did not qualify.

After our review and consideration of the State agency’s comments, we maintain that our findings and recommendations are correct.

APPENDIX A: CURRENT ENROLLMENT CALCULATIONS

EXPLANATION OF CURRENT ENROLLMENT CALCULATION

In accordance with Federal requirements, the CHIPRA current enrollment for any given FY should be calculated by:

- obtaining the number of qualifying children in every month of the FY,
- summing the monthly count of qualifying children for the FY, and
- dividing the sum for the FY by 12 to obtain the monthly average number of qualifying children for the FY.

STATE AGENCY’S CALCULATION OF FISCAL YEARS 2009 THROUGH 2012 CURRENT ENROLLMENT

The State agency calculated its CHIPRA current enrollments for each of the four FYs (2009 through 2012) using the same enrollment data source that it used for MSIS reporting. However, the State agency used a different methodology from that established in CMS guidance to compile its current enrollment. On the basis of this guidance, a State’s CHIPRA current enrollment should include only individuals whom the State identifies and reports as a BOE of “child” when reporting MSIS enrollment data. However, the State agency also included in its CHIPRA current enrollment individuals who were classified as a BOE other than “child,” thus overstating its current enrollment numbers.

Table 3: State Agency’s Reported Current Enrollments

Month	Qualifying Children			
	FY 2009	FY 2010	FY 2011	FY 2012
Oct	573,625	640,631	669,700	689,724
Nov	575,682	643,784	670,893	689,131
Dec	579,861	646,689	672,476	688,933
Jan	585,755	649,948	674,255	688,628
Feb	590,441	652,314	675,718	689,659
Mar	597,905	656,449	677,944	690,324
Apr	609,204	658,083	678,310	689,959
May	613,558	657,326	677,610	690,549
Jun	618,800	664,127	679,078	689,174
Jul	624,130	665,675	680,137	690,170
Aug	630,079	669,390	683,169	692,010
Sep	636,054	672,849	684,383	691,240
Total	7,235,094	7,877,265	8,123,673	8,279,501
Monthly Average (Total/12)	602,925	656,439	676,973	689,958

**OFFICE OF INSPECTOR GENERAL’S CALCULATION OF
FISCAL YEARS 2009 THROUGH 2012 CURRENT ENROLLMENT**

In accordance with Federal requirements, we calculated Washington’s CHIPRA current enrollments for FYs 2010 through 2012 by having the State agency run a query on its MMIS data and extracting only those individuals whom the State would identify and report as a BOE of “child” (i.e., BOE codes 4, 6, and 8) when reporting MSIS enrollment. Because the State agency was unable to extract the data from its system for FY 2009, we ran a query on the CMS Datamarts Web site and extracted only those individuals classified as BOE codes 4, 6, and 8, the results of which are in Table 4 below.

Table 4: OIG Calculated Current Enrollments

Month	Qualifying Children			
	FY 2009	FY 2010	FY 2011	FY 2012
Oct	552,528	626,382	665,389	679,340
Nov	554,782	629,583	666,313	678,512
Dec	559,067	632,589	667,700	678,342
Jan	564,504	637,531	669,335	678,239
Feb	569,238	639,876	670,448	678,883
Mar	576,775	644,989	672,668	679,744
Apr	584,794	647,864	673,193	679,320
May	586,489	649,694	672,639	679,679
Jun	580,898	653,160	673,973	677,767
Jul	572,228	655,373	675,005	679,697
Aug	570,811	659,641	678,146	681,285
Sep	570,811	663,764	679,302	680,123
Total	6,842,925	7,740,446	8,064,111	8,150,931
Monthly Average (Total/12)	570,244	645,038	672,010	679,245

APPENDIX B: AUDIT SCOPE AND METHODOLOGY

SCOPE

We reviewed the bonus payments that the State agency received for FYs 2009 through 2012, totaling \$7,861,411, \$20,649,662, \$19,014,483, and \$13,763,513, respectively. Our review focused on verifying the accuracy of enrollment information used in the bonus payment calculations and ensuring that the information used complied with Federal requirements. We neither assessed the State agency's internal control structure beyond what was necessary to meet our objective nor reviewed the State agency's determinations of Medicaid eligibility. Also, we did not review whether the State agency successfully implemented at least five of the Medicaid enrollment and retention provisions because we determined that there was a low risk of noncompliance.

We performed fieldwork at the State agency offices in Olympia, Washington, from December 2013 through March 2014.

METHODOLOGY

To accomplish our objective, we:

- reviewed applicable Federal requirements;
- held discussions with CMS financial management officials to obtain an understanding of the process that States should follow when requesting bonus payments;
- reviewed CMS's detailed calculations⁵ of Washington's bonus payments for FYs 2009 through 2012;
- verified supporting documentation for all data elements used in Washington's bonus payment calculations, including baseline enrollment and projected per capita State Medicaid expenditures;
- conducted a risk assessment of the State agency's noncompliance with Federal requirements;
- met with State agency officials to:
 - discuss the State agency's requests for bonus payments,
 - obtain correspondence between the State agency and CMS,

⁵ Appendix II of CMS, SHO Letter #09-015, CHIPRA #10, describes the data elements, processes, and methodologies for calculating the bonus payments.

- understand the State agency's methodology for determining the current enrollment reported in its requests for bonus payments, and
- understand the State agency's process for reporting MSIS enrollment data;
- analyzed the State agency's documentation supporting its requests for bonus payments;
- reviewed the State agency's MMIS enrollment data;
- reviewed Washington's enrollment and expenditure data from the CMS MSIS State Summary Datamart;
- calculated Washington's FYs 2009 through 2012 current enrollment;
- recalculated Washington's bonus payments using correct, verified data; and
- discussed the results with 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 objectives.

APPENDIX C: FEDERAL REQUIREMENTS RELATED TO BONUS PAYMENTS

PURPOSE OF THE BONUS PAYMENTS AND BASELINE CALCULATION METHODOLOGY

Section 2105(a)(3) of the Act states that performance bonus payments are intended to offset additional Medicaid and Children’s Health Insurance Program child enrollment costs resulting from enrollment and retention efforts. The payments are made to a State for a FY as a single payment not later than the last day of the first calendar quarter of the following FY.⁶ Additional guidance provided by CMS⁷ requires that payments to qualifying States be made by December 31 of the calendar year (CY) following the end of the FY for which the criteria were implemented. The bonus payments are provided to a State through a grant award.

Section 2105(a)(3)(C)(iii)(I) of the Act states that the baseline number of child enrollees for FY 2009:

is equal to the monthly average unduplicated number of qualifying children enrolled in the State plan under title XIX during FY 2007 increased by the population growth for children in that State from 2007 to 2008 (as estimated by the Bureau of the Census) plus 4 percentage points, and further increased by the population growth for children in that State from 2008 to 2009 (as estimated by the Bureau of the Census) plus 4 percentage points⁸

For each of FYs 2010, 2011, and 2012, the baseline number of child enrollees “is equal to the baseline number of child enrollees for the State for the previous FY under title XIX, increased by the population growth for children in that State from the CY in which the respective FY begins to the succeeding CY (as estimated by the Bureau of the Census) plus 3.5 percentage points.”⁹

CMS established the baseline enrollment for each State using all of the “MSIS Coding Categories” for which States report individuals under the BOE of “child” in their Medicaid programs. Specifically, these BOEs are identified as BOEs 4, 6, and 8.¹⁰

CMS provided further guidance to Washington on October 26, 2009. CMS guidance states:

We recognize that the FY 2007 baseline enrollment data obtained from MSIS may not represent an exact one-to-one mapping for each of the above statutory

⁶ Section 2105(a)(3)(A) of the Act.

⁷ CMS, SHO Letter #09-015, CHIPRA #10.

⁸ Enrollment data for FY 2007 were obtained from the MSIS.

⁹ Section 2105(a)(3)(C)(iii)(II) of the Act.

¹⁰ CMS, SHO Letter #09-015, CHIPRA #10.

eligibility categories. However ... the baseline enrollment data represents all individuals identified and reported by each State with a BOE of “child;” we believe this approach appropriately addresses the intent of the statute in a way that is operationally feasible.¹¹

CMS GUIDANCE FOR CURRENT ENROLLMENT CALCULATION

In its guidance to Washington on October 26, 2009, CMS clarified that States should include a description of the data sources and the methodologies they used to appropriately identify individuals with a BOE of “child” when reporting current enrollment.

The instructions relating to the average monthly enrollment for children were reiterated in an email from CMS to the State agency on December 12, 2011. The email stated, “**The same logic and basis that was used for developing the FY 2007 baseline should be used by each State for submitting the average monthly enrollment for children for the current fiscal year for which the bonus payment is being determined**” (original emphasis).

¹¹ CMS BP-Clarification3.docx, October 26, 2009.



STATE OF WASHINGTON
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June 26, 2014

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Dear Ms. Pilcher:

SUBJECT: Report Number: A-04-14-08028

The Washington State Health Care Authority (HCA) welcomes the opportunity to provide comments on the recommendations contained in the draft report entitled *Washington Received More Than \$19.4 Million in Unallowable Bonus Payments*.

As requested in your letter dated May 15, 2014, HCA is providing a statement of concurrence or nonconcurrence to each of the recommendations contained in the draft report.

OIG Recommendation 1: Refund \$19,484,644 to the Federal Government.

HCA Response: HCA respectfully disagrees with this recommendation. HCA believes that the bonus payments received for the audit period were allowable in accordance with Federal requirements.

OIG reports that “The State agency overstated its FYs 2009 through 2012 current enrollment in its bonus requests to CMS because it included individuals who did not qualify because of their basis-of-eligibility (BOE) code.”

CMS guidance¹ does not require the use of BOE codes in determining the current enrollment. Instead, the current enrollment is determined entirely based on the number of “Qualifying Children”, consistent with the statutory definition.

According to CMS guidance², “Qualifying Children” include all children enrolled in Medicaid who meet State eligibility criteria in effect on July 1, 2008, including children covered through CHIP-funded Medicaid expansions and children covered under section 1115 demonstrations.

¹ CMS, SHO Letter #09-015, CHIPRA #10, Appendix II(A)(2).

² CMS, SHO Letter #09-015, CHIPRA #10, Appendix II(A)(4).

More specifically, qualified children are defined as those enrolled in specific eligibility groups as well as children enrolled under a title XIX demonstration.

On the basis of this CMS guidance, HCA determined the number of children enrolled in each of the specifically identified eligibility groups. For example, eligibility group [1902(a)(10)(A)(i)(I) and 1931(b): low-income families] includes children eligible for Medicaid on the basis of receipt of benefits under title XVI of the Act (that is, the Supplemental Security Income (SSI) program, which provides benefits to blind and disabled individuals).

Accordingly, HCA properly included these qualifying “blind and disabled” children in the current enrollment numbers. No overstatements were made, and therefore, no overpayments were received. No refund amount is due to the Federal Government.

OIG Recommendation 2: Ensure that future requests for CHIPRA bonus payments include only qualifying children to comply with Federal requirements.

HCA Response: HCA believes that the established methodology for reporting “Current Enrollment of Qualifying Children” is correct and complies with federal requirements.

In additional guidance³, CMS plainly states, “The calculation of the Bonus Payment for each State is intended to include all child enrollees in each States’ Medicaid program that meet the definition of Qualifying Children. In that regard, in the guidance to States we referenced a number of citations in the Medicaid statute which were intended to reflect the eligibility categories for which children might be covered.”

Again, on the basis of this CMS guidance, HCA determined the number of children enrolled in each of the specifically identified eligibility groups. HCA then properly reported the current enrollment numbers in accordance with CMS’s stated intention of including all “Qualifying Children”.

The OIG draft report also cites a CMS email dated December 12, 2011. This email contains the following statement, “The same logic and basis that was used for developing the FY 2007 baseline should be used by each State for submitting the average monthly enrollment for children for the current fiscal year for which the bonus payment is being determined.”

This email was received several years after the initial CMS guidance was provided. HCA’s Requests for Performance Bonus Payments for FY 2009, FY 2010, and FY 2011 were all submitted to CMS prior to receipt of this email. Subsequent guidance should not be applied retroactively.

While the email does state that the “same logic and basis” that was used for developing the FY 2007 baseline should be used for submitting the current enrollment, published guidance from CMS provided two different methodologies for determining the baseline enrollment versus the current enrollment. From the beginning, CMS recognized the limitations of using the BOE

³ CMS BP-Clarification3.docx, October 26, 2009, Page 2.

codes to determine the baseline enrollment. Per CMS guidance⁴, “We recognize that the FY 2007 baseline enrollment data obtained from MSIS may not represent an exact one-to-one mapping for each of the above statutory eligibility categories. However, we believe this approach appropriately addresses the intent of the statute in a way that is operationally feasible.”

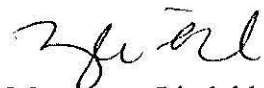
Finally, this email does not provide any new guidance that BOE codes should be used in determining the current enrollment. Instead, CMS has provided consistent guidance that the “Current Enrollment of Qualifying Children” is defined as those children enrolled in one of several specifically identified eligibility groups. HCA has followed this explicit guidance and appropriately determined the number of children enrolled in each of these eligibility groups.

HCA has worked closely with CMS since the start of the CHIPRA performance bonus payment program in 2009. Throughout, HCA has relied on CMS guidance to ensure that the appropriate data was used for calculating the fiscal year bonus payments correctly.

HCA has submitted the current enrollment numbers to CMS annually with a description of the data sources and the methodologies used. CMS has reviewed and approved each of the requests for FYs 2009 through 2012, without raising a concern or questioning the current enrollment numbers.

HCA respectfully requests that the OIG reconsider their finding.

Sincerely,



MaryAnne Lindeblad, BSN, MPH
Medicaid Director

⁴ CMS BP-Clarification3.docx, October 26, 2009, Page 3.