

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**KANSAS RECEIVED MILLIONS
IN UNALLOWABLE
BONUS PAYMENTS**

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Office of Inspector General

<https://oig.hhs.gov>

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Report in Brief

Date: November 2017

Report No. A-04-16-08050



Why OIG 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 \$3.2 billion for qualifying States to receive bonus payments to offset the costs of increased enrollment of children in Medicaid.

In previous audits of CHIPRA bonus payments in other States, we found millions of dollars in unallowable bonus payments; therefore, we identified CHIPRA bonus payments as a high-risk area. Kansas received \$36.6 million in bonus payments for fiscal years (FYs) 2009 through 2013 (audit period).

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

How OIG Did This Review

We reviewed the bonus payments that Kansas received for the audit period. Our review focused on verifying the accuracy of enrollment information used in the bonus payment calculations and ensuring that the information complied with Federal requirements. We did not review Kansas' Medicaid eligibility determinations.

Kansas Received Millions in Unallowable Bonus Payments

What OIG Found

Some of the bonus payments that Kansas received for the audit period were not allowable in accordance with Federal requirements. Most of the data used in Kansas' bonus payment calculations were in accordance with Federal requirements. However, Kansas overstated its FYs 2009 through 2013 current enrollment in its bonus requests to Centers for Medicare & Medicaid Services (CMS) because it included individuals who did not qualify because of their basis-of-eligibility (BOE) category. CMS guidance instructed States to include in its current enrollment only individuals whom the State identifies and reports as having a BOE of "child" in the Medicaid Statistical Information System, which are BOE categories 4, 6, and 8. In addition to these three BOE categories, Kansas incorrectly included individuals from other BOEs, such as BOE 2, "Blind and Disabled."

As a result of the overstated current enrollment numbers, CMS overpaid Kansas \$17.8 million in bonus payments.

What OIG Recommends and Kansas Comments

We recommend that Kansas refund \$17.8 million to the Federal Government.

In written comments on our draft report, Kansas acknowledged that it had included individuals from BOE categories other than 4, 6, and 8 in its current enrollment. However, Kansas did not concur with our findings or recommendation. Kansas said that it had followed CMS guidance to ensure the CHIPRA bonus payments it received were allowable and appropriate in accordance with Federal requirements. Additionally, Kansas said that CMS guidance allowed individuals other than those in BOE categories 4, 6, and 8 to be included in a State's current enrollment. Kansas said that CMS's calculated baseline enrollment did not include all statutory categories of children eligible for Medicaid and that all children meeting this definition were eligible for the bonus payment. Although Kansas acknowledged that it received guidance from a CMS official advising it to report BOE categories 4, 6, and 8, Kansas asserts that CMS did not make clear that it should not report individuals from other BOE categories.

After review and consideration of the Kansas' comments, we maintain that our findings and recommendation are correct. CMS has consistently and reasonably interpreted the statute and explained to Kansas that only individuals from BOE categories 4, 6, and 8 should be included in Kansas' current enrollment.

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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 previous audits of CHIPRA bonus payments in other States,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 Kansas received for FYs 2009 through 2013 because preliminary analysis indicated inconsistencies between the enrollment of children in Medicaid that Kansas 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). Kansas received \$36,560,970 in bonus payments for the FYs we reviewed.

OBJECTIVE

Our objective was to determine whether the bonus payments that Kansas 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. Kansas' Department of Health and Environment, Division of Health Care Finance (State agency), administers the State's Medicaid program.

Kansas' 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 claim processing and information

¹ See Appendix A for details.

retrieval systems. For Medicaid purposes, the mechanized claim processing and information retrieval system is the Medicaid Management Information System (MMIS).

The MMIS is an integrated group of procedures and computer processing operations designed to improve Medicaid program and administrative cost controls, service to beneficiaries 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 claim data to CMS through MSIS. The purpose of 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 age, 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 a State's 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 Kansas received for FYs 2009 through 2013. Appendix B contains the details of Kansas' current enrollment calculations for these FYs.

HOW WE CONDUCTED THIS REVIEW

We reviewed the bonus payments that Kansas received for FYs 2009 through 2013 (audit period), totaling \$1,220,479, \$5,461,248, \$5,958,759, \$12,760,085, and \$11,160,399, respectively. Our review focused on verifying the accuracy of enrollment information used in the bonus payment calculations and ensuring that the information 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 C contains the details of our scope and methodology, and Appendix D contains the Federal requirements related to bonus payments.

FINDINGS

Some of the bonus payments that Kansas received for the audit period were not allowable in accordance with Federal requirements. Most of the data used in Kansas' bonus payment calculations were in accordance with Federal requirements. However, the State agency overstated its FYs 2009 through 2013 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 Kansas \$17,796,598 in bonus payments.

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

The State agency reported CHIPRA current enrollments of 168,869, 189,228, 196,944, 212,419, and 215,429 for FYs 2009 through 2013, 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 MSIS.

Furthermore, the State's current enrollment should include only individuals whom the State identifies and reports as having a BOE of "child" in 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

² CMS, State Health Official (SHO) Letter #09-015, CHIPRA #10, and CMS email to State agency on December 12, 2011.

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

The State agency correctly 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 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. Had it followed Federal requirements, the State agency would have reported the current enrollment for FYs 2009 through 2013 as depicted in Table 1.

Table 1: Kansas Medicaid Enrollment

Current Enrollment⁴	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
State-reported number	168,869	189,228	196,944	212,419	215,429
OIG-calculated number	156,708	176,285	192,235	206,913	208,586
Overstatement	12,161	12,943	4,709	5,506	6,843

KANSAS RECEIVED MORE THAN \$17.7 MILLION IN UNALLOWABLE BONUS PAYMENTS

CMS calculated excessive CHIPRA bonus payments to Kansas because the State agency overstated its CHIPRA current enrollments for FYs 2009 through 2013. (See Table 1.) As a result, Kansas received unallowable bonus payments of \$1,220,479, \$4,168,652, \$2,921,601, \$4,144,263, and \$5,341,603 for FYs 2009 through 2013, respectively. We recalculated the bonus payments using the correct CHIPRA current enrollments for these FYs and found that Kansas should not have received a total of \$17,796,598 in bonus payments for the FYs reviewed (Table 2).

Table 2: Kansas Bonus Payments

	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	Total
Bonus payment received	\$1,220,479	\$5,461,248	\$5,958,759	\$12,760,085	\$11,160,399	\$36,560,970
Correct bonus payment	0	1,292,596	3,037,158	8,615,822	5,818,796	18,764,372
Bonus Payment Not Allowed	\$1,220,479	\$4,168,652	\$2,921,601	\$4,144,263	\$5,341,603	\$17,796,598

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

RECOMMENDATION

We recommend that the State agency refund \$17,796,598 to the Federal Government.

STATE AGENCY COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE

STATE AGENCY COMMENTS

In written comments on our draft report, the State agency acknowledged that it had included individuals with a BOE code other than 4, 6, and 8 in its current enrollment. However, the State agency did not concur with our findings or recommendation. The State agency said that it had followed CMS guidance to ensure that the CHIPRA bonus payments it received were allowable and appropriate in accordance with Federal requirements.

The State agency said that CMS SHO Letter #09-015, CHIPRA #10, allowed individuals other than those in BOE codes 4, 6, and 8 to be included in a State's current enrollment. The State agency said that CMS's calculated baseline enrollment did not include all statutory categories of children eligible for Medicaid and that all children meeting this definition were eligible for the bonus payment. Although the State agency acknowledged that it received guidance from a CMS official advising it to report BOE codes 4, 6, and 8, the State agency asserts that CMS did not make clear that the State agency should not report individuals from other BOE codes.

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

OFFICE OF INSPECTOR GENERAL RESPONSE

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

We disagree that the State agency complied with the Federal requirements for the CHIPRA bonus payments when it included individuals with a BOE code other than, 4, 6, and 8 in its current enrollment. As early as 2009, CMS clearly stated in its guidance to the State agency that it should follow the same logic and basis that CMS used to develop Kansas' baseline enrollment. Therefore, the State agency's approach overstated Kansas' current enrollment because it included enrollment categories not reflected in CMS's calculation of Kansas' baseline enrollment.

CMS acknowledged in its 2009 guidance that the listed eligibility categories were "intended to reflect the eligibility categories for which children *might* be covered" (emphasis added)⁵ and specified that BOE codes 4, 6, and 8 associated with "child" were used for developing the baseline enrollment. This same section further states:

⁵ In October 2009, CMS provided additional guidance to States in a document titled BP-Clarification3.docx.

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.

Under the *Chevron* doctrine, deference is given to an agency’s reasonable interpretation and implementation of a statute that the agency administers.⁶ In its guidance to the State agencies, CMS has consistently and reasonably interpreted the statute and explained its approach in addressing Congress’s intent. Allowing the State agency to include individuals from other BOE categories in its current enrollment counts, when those same BOE categories were not included in the baseline calculations, would result in an artificially inflated estimate of growth in children enrolled in the State’s Medicaid program.

⁶ *Chevron U.S.A. v. Natural Resources Defense Council*, 467 U.S. 837 (1984).

APPENDIX A: RELATED OFFICE OF INSPECTOR GENERAL REPORTS

Report Title	Report Number	Date Issued
<i>Colorado Received Millions in Unallowable Bonus Payments</i>	<u>A-04-15-08039</u>	8/11/2016
<i>New Mexico Received Millions in Unallowable Bonus Payments</i>	<u>A-04-15-08040</u>	11/24/2015
<i>North Carolina Received Millions in Unallowable Bonus Payments</i>	<u>A-04-14-08035</u>	7/21/2015
<i>Wisconsin Received Some Unallowable Bonus Payments</i>	<u>A-04-13-08021</u>	3/18/2015
<i>Louisiana Received More Than \$7.1 Million in Unallowable Bonus Payments</i>	<u>A-04-14-08029</u>	7/10/2014
<i>Washington Received Millions in Unallowable Bonus Payments</i>	<u>A-04-14-08028</u>	9/9/2014
<i>Alabama Received Millions in Unallowable Performance Bonus Payments Under the Children’s Health Insurance Program Reauthorization Act</i>	<u>A-04-12-08014</u>	8/27/2013

APPENDIX B: 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 2013 CURRENT ENROLLMENT

The State agency calculated its CHIPRA current enrollments for each of the five FYs (2009 through 2013) 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 outlines the State agency’s reported current enrollments.

Table 3: State Agency’s Reported Current Enrollments

	Qualifying Children				
	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Monthly Average	168,869	189,228	196,944	212,419	215,429

OFFICE OF INSPECTOR GENERAL’S CALCULATION OF FISCAL YEARS 2009 THROUGH 2013 CURRENT ENROLLMENT

To calculate Kansas’ CHIPRA current enrollments for FYs 2009 through 2011, we obtained data from CMS’s MSIS Datamart and extracted a list of individuals whom the State identified and reported with a BOE of “child” (i.e., BOE codes 4, 6, and 8) when submitting the State’s MSIS data for the audit period. However, for FYs 2012 and 2013, the MSIS information was unavailable. Therefore, we calculated the State’s CHIPRA current enrollment for FYs 2012 and

2013 by first having the State agency group its MMIS enrollment data into aggregate MSIS BOE categories by month for each year. Then, to determine the monthly average of qualifying children for FYs 2012 and 2013, we included only those individuals whom the State would identify and report as a BOE of “child” when reporting MSIS enrollment for each year. Table 4 outlines our calculated current enrollments.

Table 4: OIG Calculated Current Enrollments

Month	Qualifying Children				
	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Oct	150,661	166,345	183,724	202,927	211,171
Nov	150,962	166,786	183,875	203,836	210,678
Dec	152,012	166,307	183,988	204,591	210,556
Jan	152,891	171,101	187,170	205,362	210,519
Feb	153,861	175,133	188,485	205,966	209,024
Mar	155,250	179,597	191,412	206,502	208,302
Apr	156,679	180,551	193,087	207,086	208,262
May	158,076	180,499	195,333	208,276	207,393
Jun	159,871	180,536	196,997	209,157	206,334
Jul	161,753	181,276	198,839	209,505	207,041
Aug	163,507	183,333	201,225	210,032	207,241
Sep	164,967	183,954	202,685	209,711	206,508
Total	1,880,490	2,115,418	2,306,820	2,482,951	2,503,029
Monthly Average (Total/12)	156,708	176,285	192,235	206,913	208,586

APPENDIX C: AUDIT SCOPE AND METHODOLOGY

SCOPE

We reviewed the bonus payments that the State agency received for FYs 2009 through 2013, totaling \$1,220,479, \$5,461,248, \$5,958,759, \$12,760,085, and \$11,160,399, 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 Topeka, Kansas, from September 2016 through April 2017.

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 calculations⁷ of Kansas' bonus payments for FYs 2009 through 2013;
- verified supporting documentation for all data elements used in Kansas' 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,

⁷ 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 Kansas' enrollment and expenditure data from the CMS MSIS State Summary Datamart;
- calculated Kansas' FYs 2009 through 2013 current enrollment using allowable BOEs;
- recalculated Kansas' bonus payments using revised 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 D: 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.⁸ Additional guidance provided by CMS⁹ 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 points¹⁰

For each of FYs 2010, 2011, 2012, and 2013, 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 for FYs 2010 through 2012 and 3 percentage points for FY 2013.¹¹

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 8.¹²

⁸ Section 2105(a)(3)(A) of the Act.

⁹ CMS, SHO Letter #09-015, CHIPRA #10.

¹⁰ Enrollment data for FY 2007 were obtained from MSIS.

¹¹ Sections 2105(a)(3)(C)(iii)(II) and (III) of the Act.

¹² CMS, SHO Letter #09-015, CHIPRA #10.

CMS provided further guidance, which states:

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 ... 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.¹³

CMS GUIDANCE FOR CURRENT ENROLLMENT CALCULATION

In guidance provided to States in October 2009, CMS requested that in reporting their current enrollment, States should include a description of the data sources and methodologies they used to appropriately identify individuals with a BOE of “child.”

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).

¹³ CMS BP-Clarification3.docx, October 2009.

APPENDIX E: STATE AGENCY COMMENTS

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July 7, 2017

Ms. Lori S. Pilcher
Regional Inspector General for Audit Services
Office of Audit Services, Region IV
61 Forsyth Street, SW, Suite 3T41
Atlanta, GA 30303

Report Number: A-04-16-08050

Dear Ms. Pilcher,

The Kansas Department of Health and Environment Division of Health Care Finance (KDHE/DHCF) appreciates the opportunity to provide this response to the U.S. Department of Health and Human Services, Office of Inspector General (OIG) draft report dated June 9, 2017, and entitled *Kansas Received Millions in Unallowable Bonus Payments*. KDHE would like to thank the OIG audit team for their professionalism throughout our review of their initial findings and recommendation.

OIG Recommendation: Refund \$17,796,598 to the Federal Government. KDHE/DHCF does not concur with the recommendation for the following reasons:

I. KDHE complied with CMS requirements for the CHIPRA Bonus Payment.

The purpose of the bonus payment as stated in the FY 2009 SHO letter, is “to help States offset the costs of increased Medicaid child enrollment.” The Federal statutory definition of “qualifying children” includes all children eligible for Medicaid as of July 1, 2008.

During the course of the CHIPRA Bonus Payment audit, OIG requested MSIS beneficiary data sorted by Maintenance Assistance Status (MAS) and the Basis of Eligibility (BOE) for all audit years. KDHE provided MSIS data extracts of eligible beneficiaries sorted by MAS BOE. The original MSIS reports (along with the MSIS platform) were unavailable, requiring a recreation of the MSIS platform to access historical MSIS data. The criteria KDHE used to identify “qualified children” included Medicaid eligible children up to age 19, excluding children receiving Supplemental Security Income (SSI) and Children’s Health Insurance Program (CHIP).

During the exit conference, the OIG stated they might expect to see a 3-5% difference between the originally reported numbers and the recreated report numbers. KDHE agreed that retro-eligibility could impact the report. The difference between what KDHE originally reported and what KDHE recreated (See Table 1) is much less different than the difference stated in the OIG’s preliminary findings (See Table 2).

Table 1: KDHE Comparison Report: Kansas “Qualified Child” Medicaid Enrollment

Bonus Payment Fiscal Year	2009	2010	2011	2012	2013
Originally Reported Enrollees on Application	168,869	189,228	196,944	212,419	215,429
Recreated Data	162,037	183,091	199,096	218,370	223,438
Difference	6,832	6,137	-2,152	-5,951	-8,009
Percent of Difference	4%	3%	-1%	-3%	1%

Table 2: OIG Comparison Report: Kansas “Qualified Child” Medicaid Enrollment

Current Enrollment	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
State Application Reported Number	168,869	189,228	196,944	212,419	215,429
MSIS Data Correct number	153,724	174,742	190,622	206,913	208,586
Difference	15,145	14,486	6,322	5,506	6,843
Percent of Difference	9%	8%	3%	3%	3%

II. The criteria for eligible children as outlined in the FY 2009 SHO letter, Appendix II, pages 12-13, goes beyond the MAS BOE categories of 4, 6, and 8.

The definition of Qualifying Children as listed in the FY 2009 SHO letter, Appendix II, pages 12-13 is, “(Q)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. More specifically, qualified children are defined as those enrolled in one of the following eligibility groups as well as children enrolled under a title XIX demonstration:

- 1902(a)(10)(A)(i)(I) and 1931(b): low-income families
- 1902(a)(10)(A)(i)(III) and 1905(a)(i): Qualified Children
- 1902(a)(10)(A)(i)(IV) and 1902(l)(1)(B): poverty-level related children under age 1
- 1902(a)(10)(A)(i)(VI) and 1902(l)(1)(C): poverty-level related children aged 1 up to age 6
- 1902(a)(10)(A)(i)(VII) and 1902(l)(1)(D): poverty-level related children aged 6 up to age 19
- 1902(a)(10)(A)(ii)(I) and 1905(a)(i): reasonable categories of AFDC-related children
- 1902(a)(10)(A)(ii)(II) and 1905(a)(i): children who would meet the AFDC requirements if work-related child care costs were paid from earnings rather than by State agency
- 1902(a)(10)(A)(ii)(III) and 1905(a)(i): children who would meet the AFDC requirements if they were as broad as allowed under Federal law
- 1902(a)(10)(A)(ii)(VIII): non-IV-E State subsidized adoption children
- 1902(a)(10)(A)(ii)(IX) and 1902(l)(1)(B): poverty-level related children under age 1
- 1902(a)(10)(A)(ii)(XIV): optional targeted low-income children
- 1902(a)(10)(A)(ii)(XVII): independent foster care adolescents
- 1902(a)(10)(A)(ii)(XIX): Family Opportunity Act children (certain disabled children)
- 1902(a)(10)(C)(i)(III) and 1905(a)(i): medically needy children

- 1902(e)(3): TEFRA children (disabled children receiving home and community-based services)
- 1920A: presumptive eligibility for children (only if the child is determined to be eligible for medical assistance under title XIX)”

Kansas identified children across the beneficiary universe meeting the criteria listed above. The number Kansas reported is an accurate reflection of “all” eligible children in Kansas. This includes children in BOE of Blind and/or Disabled children (2) who could additionally be classified in BOE categories of Child (4), Child of Unemployed Adult (6) or Foster Care Child (8). Additionally this includes children in the BOE category of Adult (5) meeting the CMS guidance for those under age 19, and those under age 19 in the TANF population.

III. The baseline calculated by CMS did not include all statutory categories of children eligible for Medicaid as of July 1, 2008. All children meeting this definition were eligible for the bonus payment.

Upon initializing the CHIPRA Bonus Payment, CMS calculated a baseline for each State using FY 2007 MSIS data counting only children reported by States in MAS BOE categories of Child (4), Child of Unemployed Adult (6), and Foster Care Child (8). In the FY 2009 State Health Official (SHO) letter, CMS acknowledged that “the FY 2007 Baseline enrollment data obtained from MSIS may not represent an exact one-to-one mapping for each of the statutory categories... The CMS will work with States to obtain the current enrollment level of qualifying children for each state, consistent with the statutory definition, the reporting mechanisms, and validation process for such data in the State and/or Nationally” (FY 2009 SHO letter, Appendix II, pages 10-11).

IV. CMS did not instruct the states to use MAS BOE categories of 4, 6, and 8 to calculate beneficiaries in the application for the bonus payment.

V. CMS did not provide additional guidance regarding how the states should calculate qualified children in application for the bonus payment until 2011 and the guidance was not clear.

CMS offered further guidance to States by email three years into the process. CMS Senior Advisor, Richard Strauss, advised agencies to count children identified by BOE codes 4, 6, and 8. However, he did not indicate States should discontinue counting the specific statutory eligibility groups listed on pages 12 and 13 of Appendix II of the 2009 SHO. KDHE did exclude SSI recipients from their calculation for FY 2011 to FY 2013.

During the course of this audit, KDHE/DHCF Eligibility staff looked at changes in MAS BOE criteria that would have affected how KDHE’s qualified children were identified for the CHIPRA Bonus Payment applications. No impacting changes were identified.

KDHE/DHCF respectfully, requests the OIG align their calculation methodology with the FY2009 SHO letter, recalculate the baseline and eligible children for subsequent years, and compare with Kansas’ reported numbers for that time period.

Kansas understands the importance of utilizing Federal Medicaid funds appropriately. This was no exception. Kansas followed CMS direction to ensure all CHIPRA bonus payments were allowable and appropriate in accordance with Federal requirements.

If you have any questions or comments regarding KDHE/DHCF’s response, please contact Jason Osterhaus, Program Integrity Manager, at (785) 296-2319 or email at Jason.Osterhaus@ks.gov.

Sincerely,



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