Department of Health and Human Services

OFFICE OF INSPECTOR GENERAL

TEXAS CLAIMED COMMUNITY FIRST CHOICE FEE-FOR-SERVICE EXPENDITURES APPROPRIATELY

Inquiries about this report may be addressed to the Office of Public Affairs at Public.Affairs@oig.hhs.gov.

Gloria L. Jarmon
Deputy Inspector General
for Audit Services

December 2018
A-06-17-08002

Office of Inspector General

https://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.

Report in Brief
Date: December 2018
Report No. A-06-17-08002

U.S. DEPARTMENT OF HEALTH & HUMAN SERVICES
OFFICE OF INSPECTOR GENERAL

Texas Claimed Community First Choice Fee-for-Service Expenditures Appropriately

Why OIG Did This Review

The Patient Protection and Affordable Care Act of 2010 established the Community First Choice (CFC) benefit program under the Social Security Act (the Act). Under the Act, States have the option to amend their Medicaid State plan to provide home and community-based personal attendant services and related supports through CFC services to individuals that would otherwise require an institutional level of care. We reviewed Texas because it was one of five States participating in this new program. In addition to managed care payments, Texas also began claiming CFC fee-for-service (FFS) expenditures on June 1, 2015.

Our objective was to determine whether Texas claimed CFC FFS expenditures appropriately from October 1, 2015, through September 30, 2016.

How OIG Did This Review

Our review covered $208.9 million in Federal funds that Texas claimed for CFC FFS expenditures. We obtained Texas' CFC FFS claims and analyzed those claims to ensure they were for CFC services.

What OIG Found

Texas claimed CFC FFS expenditures appropriately, with minimal errors. Specifically, Texas inappropriately paid for both CFC FFS claims, totaling $116,973 ($73,845 Federal share), and managed care payments for beneficiaries during the same months.

What OIG Recommends and Texas Comments

We recommend that Texas:

- refund $73,845 to the Federal Government that it inappropriately paid for CFC FFS claims and
- establish controls whereby Texas cannot make a CFC FFS claim payment and a managed care payment in the same month for a beneficiary's CFC services.

Texas did not concur or non-concur with either recommendation. However, they indicated steps they would take to address both recommendations. Regarding the first recommendation, Texas said it would conduct further research and analysis to verify the inappropriate payments we identified and refund the Federal share of those confirmed unallowable payments to the Federal Government. For the second recommendation, Texas said it would develop and implement controls to ensure that a CFC FFS claim payment and managed care payment could not be made in the same month for a beneficiary's CFC services.

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INTRODUCTION

WHY WE DID THIS REVIEW

The Patient Protection and Affordable Care Act of 2010 established the Community First Choice (CFC) benefit program under the Social Security Act (the Act). Under the Act, States have the option to amend their Medicaid State plan to provide home- and community-based personal attendant services and related supports through CFC services to individuals that would otherwise require an institutional level of care. We reviewed Texas because it was one of five States participating in this new program. The Texas Health and Human Services Commission (State agency) began claiming CFC fee-for-service (FFS) expenditures on June 1, 2015.

OBJECTIVE

Our objective was to determine whether the State agency claimed CFC FFS expenditures appropriately from October 1, 2015, through September 30, 2016.

BACKGROUND

Medicaid Program

The Medicaid program provides medical assistance to eligible 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.

States use the standard Form CMS-64, Quarterly Medicaid Statement of Expenditures for the Medical Assistance Program (CMS-64), to report actual Medicaid expenditures for each quarter. CMS uses the information on the CMS-64s to calculate the reimbursement due to the States for the Federal share of Medicaid expenditures. The Federal Government determines the Federal share amount that it reimburses to State Medicaid agencies by the Federal medical assistance percentage (FMAP). FMAPs vary based on the States' relative per capita incomes. During our audit period, the State agency's FMAP was 57.13 percent. States participating in the CFC program receive an additional six percent FMAP for CFC services. As a result, the FMAP for the State agency's CFC services during our audit period was 63.13 percent.

Community First Choice Program

The purpose of the CFC program is to provide individuals that qualify for an institutional level of care the opportunity to receive necessary personal attendant services and supports in a home- or community-based setting. The CFC program expands Medicaid opportunities for the

provision of these services and is an additional tool that States can use to facilitate community integration.

To receive CFC services, an individual must meet the following requirements:

- be eligible for Medicaid; and

- need an institutional level of care with assistance in activities of daily living, such as dressing, bathing, and eating.

Texas Community First Choice Payment Delivery Models and Expenditure Reporting

The State agency uses two payment delivery models for its CFC program: FFS and managed care. Under the FFS model, States pay providers directly for each covered CFC service received by eligible Medicaid beneficiaries. The State agency compiles the payments for FFS claims and reports them as expenditures on the CMS-64.

Under the managed care model, States pay a monthly fee, called a capitation payment, to managed care plans for each person enrolled in the plan. The managed care plans pay healthcare providers for all Medicaid services, including CFC services. The State agency reports those capitation payments separately from the FFS payments on the CMS-64.

HOW WE CONDUCTED THIS REVIEW

Our review covered $208,865,276 in Federal funds that the State agency claimed for CFC FFS expenditures on the CMS-64 from October 1, 2015, through September 30, 2016. We obtained the CFC FFS claims that the State agency reported as expenditures and both analyzed those claims to ensure they were for CFC services and reconciled those claim amounts with the State agency's CMS-64s. We did not test beneficiary eligibility for the CFC program.

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 A contains the details of our audit scope and methodology.

FINDING

The State agency claimed CFC FFS expenditures appropriately, with minimal errors. Specifically, the State agency inappropriately paid for both CFC FFS claims, totaling $116,973 ($73,845 Federal share), and managed care payments for beneficiaries during the same months.

THE STATE AGENCY INAPPROPRIATELY PAID BOTH FEE-FOR-SERVICE CLAIMS AND MANAGED CARE PAYMENTS FOR THE SAME BENEFICIARIES

Data processing errors include payments made for both FFS claims and managed care when only one payment should be made, which results in an overpayment.[1] The State agency must return the Federal share of overpayments made based on medical and data processing errors to CMS.[2]

The State agency inappropriately claimed $116,973 ($73,845 Federal share) in CFC FFS expenditures related to 1,201 CFC FFS claims for 86 Medicaid beneficiaries, who also had a managed care capitated CFC payment made on their behalf. A State agency official told us the overpayments might have occurred because of the overlap among months when beneficiaries switch between managed care and FFS. Our analysis showed that for these beneficiaries, the State agency paid for CFC services both through a managed care plan and FFS on the months where beneficiaries switched between managed care and FFS.

RECOMMENDATIONS

We recommend that the State agency:

- refund $73,845 to the Federal Government that it inappropriately paid for CFC FFS claims; and

- establish controls whereby the State agency cannot make a CFC FFS claim payment and a managed care payment in the same month for a beneficiary's CFC services.

STATE AGENCY COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE

In written comments on our draft report, the State agency did not concur or non-concur with either recommendation. However, they indicated steps they would take to address both recommendations. Regarding the first recommendation, the State agency said it would conduct further research and analysis to verify the inappropriate payments we identified and refund the Federal share of those confirmed unallowable payments to the Federal Government.

[1] 42 CFR § 431.960(b).

[2] 42 CFR § 431.1002(a) sets forth the general requirements and process for States to return the Federal share of overpayments to CMS.

For the second recommendation, the State agency said it would develop and implement controls to ensure that a CFC FFS claim payment and managed care payment could not be made in the same month for a beneficiary's CFC services.

We removed one finding in response to the State agency's comments and redacted that portion of the comments that addressed the finding we removed. The State agency's comments appear as Appendix B.

APPENDIX A: AUDIT SCOPE AND METHODOLOGY

SCOPE

Our review covered $208,865,276 in Federal funds that the State agency claimed for CFC FFS expenditures on the CMS-64 from October 1, 2015, through September 30, 2016. We limited our review of the State agency's internal controls to those related to the CFC program because our objective did not require an understanding of the State agency's overall internal control structure. We did not test beneficiary eligibility for the CFC program.

We performed our audit work at the State agency's offices in Austin, Texas.

METHODOLOGY

To accomplish our objective, we:

- reviewed applicable Federal laws, regulations, and guidance;
- reviewed the State agency's approved State plan;
- interviewed State agency officials to understand their policies and procedures related to the CFC program;
- obtained the State agency's CFC FFS claims and reconciled the claims' amounts with the State agency's CMS-64s;
- obtained and analyzed the State agency's CFC FFS claims and managed care payments for accuracy and determined the effects of issues we identified; and
- discussed the results of our audit with the State agency.

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

APPENDIX B: STATE AGENCY COMMENTS

TEXAS
Health and Human Services

Texas Health and Human Services Commission

Dr. Courtney N. Phillips
Executive Commissioner

November 12, 2018

Ms. Patricia Wheeler
Regional Inspector General for Audit Services
Office of Inspector General, Office of Audit Services
1100 Commerce, Room 632
Dallas, Texas 75242

Re: Report Number A-06-17-08002

Dear Ms. Wheeler:

The Texas Health and Human Services Commission (HHSC) received a draft audit report entitled "Texas Claimed Community First Choice Fee-For-Service Expenditures Appropriately" from the U.S. Department of Health and Human Services Office of Inspector General. The cover letter, dated September 11, 2018, requested that HHSC provide written comments, including the status of actions taken or planned in response to report recommendations.

I appreciate the opportunity to respond. Please find the attached HHSC management response, which (a) includes comments related to the content of the findings and recommendations and (b) details actions HHSC has completed or planned.

Please let me know if you have any questions or need additional information. David M. Griffith, Deputy IG for Audit, HHSC Office of Inspector General, serves as the lead staff on this matter and he can be reached by telephone at (512) 491-2806 or by email at David.Griffith@hhsc.state.tx.us.

Sincerely,

Dr. Courtney N. Phillips

P.O. Box 13247 • Austin, Texas 78711-3247 • 512-424-6500 • *hhs.texas.gov*

Texas Health and Human Services Commission
Management Response to the
U.S. Department of Health and Human Services Office of Inspector General Report:
Texas Claimed Community First Choice
Fee-For-Service Expenditures Appropriately

DHHS-OIG Recommendation #1: *We recommend that the State agency refund $73,845 to the Federal Government that it inappropriately paid for CFC FFS claims.*

HHSC Management Response:

HHSC will conduct further research and analysis to verify inappropriate payments identified during the audit. The federal share of payments confirmed as unallowable will be refunded to the federal government.

Estimated Completion Date:

Within one year of the date of the final audit report.

Title of Responsible Person:

Deputy Associate Commissioner for Program Enrollment and Support

DHHS-OIG Recommendation #2: *We recommend that the State agency establish controls whereby Texas cannot make a CFC FFS claim payment and a managed care payment in the same month for a beneficiary's CFC services.*

HHSC Management Response:

HHSC will develop and implement controls to ensure a CFC FFS claim payment and a managed care payment cannot be made in the same month for a beneficiary's CFC services.

Estimated Completion Date:

August 31, 2020

P.O. Box 13247 • Austin, Texas 78711-3247 • 512-424-6500 • *hhs.texas.gov*

Title of Responsible Person:

Deputy Associate Commissioner for Program Enrollment and Support
Deputy Associate Commissioner for Operations

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[3] **Office of Inspector General Note:** This section of the State agency's comments is not applicable because the finding or the issue referred to by the auditee is not included in this report.