

Department of Health and Human Services
Office of Inspector General



Office of Audit Services

December 2024 | A-06-23-09002

Twelve Selected States Did Not Accurately Calculate the Federal Share of Medicaid Collections Subject to the Increased COVID-19 Federal Medical Assistance Percentages



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Why OIG Did This Audit

- Collections of Medicaid expenditures, such as overpayments recovered, refunds, and similar receipts, decrease the amount of Federal funding States receive for the quarter. CMS instructs States to make refunds of the Federal share at the Federal Medical Assistance Percentage (FMAP) at which the original expenditures were reimbursed.
- In response to the COVID-19 pandemic, Congress temporarily increased States' FMAPs by 6.2 percentage points.
- In a previous audit, we determined that States retained the difference between the Federal share of collections calculated at the increased FMAP authorized by the American Recovery and Reinvestment Act and the Federal share calculated at the regular FMAP and recommended that CMS recoup \$25 million in overpayments.
- This audit examined whether 13 selected States accurately calculated the Federal share of collections subject to the increased FMAP.

What OIG Found

- Twelve of the 13 selected States underreported the Federal share of collections by a net \$61.8 million because they did not use the correct FMAP or made calculation errors.

What OIG Recommends

We made four recommendations to CMS to improve how States calculate and report Medicaid collections, including States correcting their reporting to return the net \$61.8 million in Federal share. The full recommendations are in the report.

CMS concurred with all four recommendations.

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INTRODUCTION

WHY WE DID THIS AUDIT

The COVID-19 pandemic was declared a nationwide public health emergency (PHE) in January 2020. In March 2020, Congress enacted the Families First Coronavirus Response Act (FFCRA) in response to the PHE.¹ The FFCRA provided States with a temporary increase of 6.2 percentage points to their regular Federal medical assistance percentage (FMAP) rates. The increased COVID-19 FMAP became effective January 1, 2020, was extended through December 31, 2023, and the percentage-point increase began phasing down on April 1, 2023. To account for overpayments recovered, refunds, and similar receipts, States report collections on the Quarterly Medicaid Statement of Expenditures for the Medical Assistance Program (CMS-64 report). These collections decrease the amount of Federal funding that States receive for the quarter. The Centers for Medicare & Medicaid Services (CMS) instructs States to make refunds of the Federal share at the FMAP at which the original expenditures were reimbursed.

In a previous audit, we determined that States retained the difference between the Federal share of collections calculated at the increased FMAP authorized by the American Recovery and Reinvestment Act and the Federal share calculated at the regular FMAP and recommended that CMS recoup \$25 million in overpayments.² For this audit, we were concerned that States may also have miscalculated the Federal share of collections subject to the increased COVID-19 FMAP.

OBJECTIVE

Our objective was to determine whether selected States accurately calculated the Federal share of collections subject to the increased COVID-19 FMAP.

BACKGROUND

Medicaid Program

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, CMS administers the program. Each State administers its Medicaid program according to a CMS-approved State plan. Each State has considerable

¹ The Families First Coronavirus Response Act (P.L. No. 116-127) (Mar. 18, 2020).

² *States Inappropriately Retained Federal Funds for Medicaid Collections for the First Recovery Act Quarter (A-06-11-00064)*, June 22, 2012.

flexibility in designing and operating its Medicaid program but must comply with applicable Federal requirements.

The Federal Government pays its share of a State's medical assistance costs based on the FMAP, which varies depending on the State's per capita income.³ Although FMAPs are adjusted annually for economic changes in the States, Congress may increase or decrease FMAPs at any time. In March 2020, Congress enacted the FFCRA in response to the PHE. Section 6008 of the FFCRA provides a temporary increase of 6.2 percentage points to each State's FMAP under section 1905(b) of the Social Security Act (the Act), effective January 1, 2020. The FFCRA, as amended, provided for phasing down the amount of funding beginning April 1 through December 31, 2023.⁴ The increased COVID-19 FMAPs varied by State and, for selected States, ranged from 56.2 percent to 78.78 percent during our audit period. Appendix B contains the selected States' regular and increased COVID-19 FMAPs for the audit period.

Within 30 days after the end of each quarter, States report expenditures and the associated Federal share on the CMS-64 report. The amounts that States report must represent actual expenditures (42 CFR § 430.30). To account for overpayments recovered, refunds, and similar receipts, States report collections on CMS-64 Summary Lines 9A through 9G in the CMS-64 report. Some examples of the different types of collections include Line 9A Third Party Liability (TPL), Line 9B Probate, and Line 9C Fraud, Waste, and Abuse. Collections include funds that a State has recovered from other parties responsible for an enrollee's health care costs, the estates of deceased Medicaid enrollees, and funds collected because of States' program integrity efforts. These collections decrease the amount of Federal funding that States receive for the quarter. If the Federal share of collections is underreported, the Federal payment for the quarter will be higher than it should be. Conversely, overreporting the Federal share of collections results in a lower Federal payment for the quarter.

HOW WE CONDUCTED THIS AUDIT

We analyzed States' Federal share of collections reported during periods of the increased COVID-19 FMAP and nonstatistically selected for review 13 States that did not appear to have used the increased COVID-19 FMAPs to calculate the Federal share of some portion of their collections. Our audit covered \$1.7 billion in Federal share that the 13 selected States reported related to \$3.017 billion in Medicaid collections that were subject to the increased COVID-19 FMAP for January 1, 2020, through June 30, 2022. We reviewed the selected States' procedures for identifying the FMAPs used to calculate the Federal share of collections and reviewed their supporting documentation to identify collections with Federal shares subject to

³ Social Security Act (the Act) § 1905(b).

⁴ The PHE ended May 11, 2023. Section 5131(a) of the Consolidated Appropriations Act, 2023, amended section 6008(a) of the FFCRA to continue the temporary FMAP increase through Dec. 31, 2023, and began phasing down the amount of the FMAP increase beginning Apr. 1, 2023 (P.L. No. 117-328) (Dec. 29, 2022).

the increased COVID-19 FMAP and, when appropriate, calculated the net Federal share that CMS should recoup from or refund to the States. We also nonstatistically selected 6 of the 13 States and obtained CMS's documentation supporting its oversight for those 6 States' collections and assessed CMS's adherence to its collections review policies and procedures.

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

TWELVE STATES DID NOT ACCURATELY CALCULATE THE FEDERAL SHARE OF COLLECTIONS SUBJECT TO THE INCREASED COVID-19 FEDERAL MEDICAL ASSISTANCE PERCENTAGES

Pursuant to section 1903(a)(1) of the Social Security Act, CMS reimburses each State at the FMAP for the quarter in which the expenditure was made. 45 CFR § 95.13(b) states that CMS recognizes a State agency expenditure for Medicaid services to be made in the quarter in which the State agency made a payment to the service provider. The *CMS State Medicaid Manual* (the Manual), section 2500.6(B), instructs States to “determine the date or period of the expenditure for which the refund is made to establish the FMAP at which the original expenditure was matched by the Federal Government. Make refunds of the Federal share at the FMAP for which you were reimbursed. When recoveries cannot be related to a specific period, compute the Federal share at the FMAP rate in effect at the time the refund was received. Make adjustments to prior periods in subsequent [CMS-64] forms to reflect the correct FMAP rate.”

The FFCRA Frequently Asked Questions (FAQs) reinforced the guidance in the Manual by instructing States to report collections at the FMAP that was in effect at the time the expenditure was made: “States must report overpayments and collections at the same match rate at which the expenditures were originally claimed, including when the original rate incorporated the 6.2 percentage point FMAP increase.”⁵

⁵ CMS, “COVID-19 Frequently Asked Questions (FAQs) for State Medicaid and Children’s Health Insurance Program (CHIP) Agencies,” (updated Jan. 6, 2021), Section IV: Financing, F: FFCRA Temporary FMAP Increase. Available online at <https://www.medicaid.gov/state-resource-center/downloads/covid-19-faqs.pdf>. Accessed on Mar. 18, 2024.

Of the 13 States we reviewed, 12 States did not accurately calculate the Federal share of collections subject to the increased COVID-19 FMAP. During the audit period, the 13 selected States reported a total of \$1.7 billion in Federal share related to Medicaid collections that were subject to the increased COVID-19 FMAP. However, the States should have calculated and reported a total Federal share for those collections of \$1.762 billion. The difference resulted from 12 States underreporting the Federal share of collections by a net \$61.8 million.⁶

The table summarizes the selected States' reported Federal share for collections subject to the increased COVID-19 FMAP, the correct Federal share that should have been reported, and any difference between those two amounts. Specifically, the table identifies the 11 States that underreported the Federal share of collections, 1 State (Wyoming) that overreported the Federal share of collections, and 1 State (Wisconsin) that reported the correct Federal share of collections.

Table: Summary of Select States' COVID-19 Federal Share Collections

State	Reported Federal Share	Correct Federal Share	Under (Over) Reported Federal Share
Pennsylvania	\$260,973,799	\$291,877,509	\$30,903,710
Colorado	77,489,241	87,064,407	9,575,166
Minnesota	111,175,576	119,955,821	8,780,245
Connecticut	145,489,802	152,838,756	7,348,954
New Hampshire	12,327,197	13,855,767	1,528,570
Florida	135,194,103	136,426,928	1,232,825
Massachusetts	222,946,939	223,925,934	978,995
California	251,183,542	252,102,580	919,038
Indiana	95,597,917	96,424,254	826,337
Alabama	28,234,554	28,643,000	408,446
Virginia	309,212,423	309,214,566	2,143
Wisconsin	38,270,527	38,270,527	-
Wyoming	12,503,676	11,791,961	(711,715)
Total:	\$1,700,599,296	\$1,762,392,010	\$61,792,714

States did not consistently follow their own procedures for calculating the Federal share of collections. Also, States made manual keying errors and formula calculation errors in their Excel spreadsheets they used to calculate the Federal share of collections, which led to incorrectly reporting the Federal share of collections.

⁶ The exact amount is \$61,792,714.

CMS often did not detect States' Federal share calculation errors during its CMS-64 report reviews. CMS's policies and procedures for reviewing States' reported collections focused primarily on validating the accuracy of the total collection amounts and did not require its reviewers to validate that the States correctly calculated the Federal share of any collection types other than TPL collections. The policies and procedures did include a specific requirement that reviewers verify that the increased Federal share for TPL collections was properly supported, but we could not determine whether CMS reviewers always met this requirement.

Within CMS's oversight documentation for six States, we saw no evidence for two of the six States that CMS's reviewers verified that the increased Federal share for TPL collections was properly supported as required. The CMS reviewer for only one of the four remaining States detected calculation errors related to the increased Federal share for TPL collections. During CMS's review of that State's CMS-64 report for the quarter ended March 31, 2021, the CMS reviewer detected that the State was not calculating the Federal share of any TPL collections using the increased COVID-19 FMAP and notified the State that it should have been calculating an increased Federal share for TPL collections. However, that State made no corrections to the Federal share of collections to correct the underreported Federal share.

RECOMMENDATIONS

We recommend that the Centers for Medicare & Medicaid Services:

- require the States to correct the reported Federal share of collections that were subject to the increased COVID-19 FMAP by:
 - recouping \$62,504,429 from the 11 States that underreported the Federal share of Medicaid collections and
 - refunding \$711,715 to 1 State that overreported the Federal share of Medicaid collections;
- emphasize to States that they should consistently follow their procedures for calculating the Federal share of collections, including during periods of increased FMAPs;
- reinforce with reviewers that they should verify that the increased Federal share for TPL collections was properly supported; and
- revise its policies and procedures for reviewing States' reported collections to include review of States' calculations of the Federal share for all collections.

CMS COMMENTS

In written comments on our draft report, CMS concurred with our recommendations and described actions that it had taken or planned to take to address them. Specifically, regarding our first recommendation, CMS stated that it had already begun working collaboratively with States to resolve the issues of underreporting the Federal share of Medicaid collections and that three States have already corrected their reporting of the Federal share of collections that were subject to the increased FMAP and returned approximately \$2.5 million to CMS. Further, Pennsylvania has committed to returning \$30.9 million on its next CMS-64 report filing. CMS will continue to work with States to ensure the remaining underreported Federal share of Medicaid collections is returned and that the overreported Federal share is refunded.

Regarding our other three recommendations, CMS stated that it will (1) remind States that they should be consistently following their procedures for calculating the Federal share of collections; (2) remind reviewers that, when appropriate, they should ensure the Federal share of TPL collections is properly supported, including by accounting for any increased FMAP that may be available; and (3) assess how best to revise its policies and procedures to address the risk that the findings of this audit identified.

Finally, CMS provided technical comments, which we addressed as appropriate. CMS's comments, excluding the technical comments, are included as Appendix C.

APPENDIX A: AUDIT SCOPE AND METHODOLOGY

SCOPE

We performed an analysis of States' Federal share of collections for the 50 States and the District of Columbia to identify 17 States that did not appear to have used the increased COVID-19 FMAP. From these 17 States, we nonstatistically selected 13 States to review. We reviewed \$1.7 billion in Federal share that the 13 selected States reported related to \$3.017 billion in Medicaid collections that were subject to the increased COVID-19 FMAP from January 1, 2020, through June 30, 2022.

We assessed CMS's internal controls and compliance with laws and regulations necessary to satisfy the audit objective. We assessed CMS's oversight activities related to its review of States' reported collections. We limited our review to documentation supporting the FMAPs the States used to calculate the Federal share of collections. We did not review the collections for completeness and accuracy.

We conducted our audit from March 2023 through August 2024.

METHODOLOGY

To accomplish our objective, we:

- reviewed applicable Federal laws, regulations, and policies;
- interviewed CMS officials to obtain an understanding of the requirements for reporting collections on the CMS-64 report;
- assessed the design of CMS's policies and procedures for reviewing States' collections reported on the CMS-64 reports;
- analyzed the Federal share of collections that the 50 States and the District of Columbia reported during periods of the increased COVID-19 FMAP, identified 17 States that did not appear to have used the increased COVID-19 FMAP to calculate the Federal share of some portion of their collections, and nonstatistically selected for review 13 of those States that seemed at higher risk of miscalculating the Federal share of their collections;

- nonstatistically selected 6 of the 13 States, obtained CMS’s documentation supporting its oversight for those 6 States’ collections, and assessed CMS’s adherence to its collections review policies and procedures;⁷
- asked the States to provide documentation to support the collections (Lines 9A through 9G and the FMAPs applied) reported on the CMS-64 report and asked them questions about their procedures to claim collections and assign FMAPs;
- reviewed the States’ procedures for identifying the FMAPs used to calculate the Federal share of collections;
- reviewed the supporting documentation to: (1) identify collections with Federal shares subject to the increased COVID-19 FMAP and (2) when appropriate, calculate the Federal share that CMS should recoup from or refund to the States as the difference between the Federal share calculated using the increased COVID-19 FMAP and the Federal share calculated using the regular FMAP; and
- discussed our results with the selected States and CMS.

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.

⁷ We nonstatistically selected these six States using a combination of States’ Medicaid reimbursement level, variability in FMAP application, and our preliminary analysis results.

**APPENDIX B: SELECTED STATES' REGULAR AND INCREASED COVID-19
FEDERAL MEDICAL ASSISTANCE PERCENTAGES**

FMAP Period⁸	State	Regular FMAP (%)	Increased COVID-19 FMAP (%)
1	Alabama	71.97	78.17
2	Alabama	72.58	78.78
3	Alabama	72.37	78.57
1	California	50.00	56.20
2	California	50.00	56.20
3	California	50.00	56.20
1	Colorado	50.00	56.20
2	Colorado	50.00	56.20
3	Colorado	50.00	56.20
1	Connecticut	50.00	56.20
2	Connecticut	50.00	56.20
3	Connecticut	50.00	56.20
1	Florida	61.47	67.67
2	Florida	61.96	68.16
3	Florida	61.03	67.23
1	Indiana	65.84	72.04
2	Indiana	65.83	72.03
3	Indiana	66.30	72.50
1	Massachusetts	50.00	56.20
2	Massachusetts	50.00	56.20
3	Massachusetts	50.00	56.20
1	Minnesota	50.00	56.20
2	Minnesota	50.00	56.20
3	Minnesota	50.51	56.71
1	New Hampshire	50.00	56.20
2	New Hampshire	50.00	56.20
3	New Hampshire	50.00	56.20
1	Pennsylvania	52.25	58.45
2	Pennsylvania	52.20	58.40
3	Pennsylvania	52.68	58.88

⁸ FMAP Period 1 = Jan. 1, 2020—Sept. 30, 2020.
 FMAP Period 2 = Oct. 1, 2020—Sept. 30, 2021.
 FMAP Period 3 = Oct. 1, 2021—June 30, 2022.

FMAP Period⁸	State	Regular FMAP (%)	Increased COVID-19 FMAP (%)
1	Virginia	50.00	56.20
2	Virginia	50.00	56.20
3	Virginia	50.00	56.20
1	Wisconsin	59.36	65.56
2	Wisconsin	59.37	65.57
3	Wisconsin	59.88	66.08
1	Wyoming	50.00	56.20
2	Wyoming	50.00	56.20
3	Wyoming	50.00	56.20

APPENDIX C: CMS COMMENTS



DEPARTMENT OF HEALTH & HUMAN SERVICES

Centers for Medicare & Medicaid Services

Administrator
Washington, DC 20201

DATE: October 2, 2024

TO: Juliet T. Hodgkins
Principal Deputy Inspector General

FROM: Chiquita Brooks-LaSure *Chiquita LaSure*
Administrator
Centers for Medicare & Medicaid Services

SUBJECT: Office of Inspector General (OIG) Draft Report: Twelve Selected States Did Not Accurately Calculate the Federal Share of Medicaid Collections Subject to the Increased COVID-19 Federal Medical Assistance Percentages (A-06-23-09002)

The Centers for Medicare & Medicaid Services (CMS) appreciates the opportunity to review and comment on the Office of Inspector General's (OIG) draft report. CMS takes seriously its responsibilities to protect taxpayer funds by conducting thorough oversight of the Medicaid expenditures claimed by states. Because Medicaid is jointly funded by states and the federal government, and is administered by states within federal guidelines, both CMS and states have key roles as stewards of the program and work together to carry out these responsibilities.

In order to support both states and the federal government in responding to the coronavirus disease 2019 (COVID-19) Public Health Emergency (PHE), Congress passed the Families First Coronavirus Response Act (FFCRA; P.L. 116-127) on March 18, 2020. As described in the OIG's report, section 6008 of the FFCRA authorized states to claim a temporary 6.2 percentage point increase in their Federal Medical Assistance Percentage (FMAP) for a temporary period, so long as they met certain conditions. For example, states claiming the temporary FMAP increase were unable to terminate the enrollment for most individuals enrolled in Medicaid on or after March 18, 2020, until the continuous enrollment condition expired. CMS provided guidance to states on the conditions for claiming the temporary FFCRA FMAP increase through various means, including through Frequently Asked Questions (FAQs),¹ all state calls,² and individualized technical assistance. Under amendments to the FFCRA in the Consolidated Appropriations Act, 2023, (P.L. 117-328) (CAA, 2023), the continuous enrollment condition ended on March 31, 2023, and the FFCRA's temporary FMAP increase was gradually phased down between April 1 and December 31, 2023.

¹ CMS, COVID-19 Frequently Asked Questions (FAQs) for State Medicaid and Children's Health Insurance Program (CHIP) Agencies. Accessed at: <https://www.medicare.gov/state-resource-center/downloads/covid-19-faqs.pdf>

² CMS, Medicaid and CHIP All State Calls. Accessed at: <https://www.medicare.gov/resources-for-states/coronavirus-disease-2019-covid-19/cmcs-medicare-and-chip-all-state-calls/index.html>.

Upon enactment of the FFCRA, CMS worked to modify the Form CMS-64 to accommodate the changes for state reporting of budget estimates and expenditures eligible for the increased FMAP. The CMS-64 is a statement of the quarterly expenditures for which states claim federal matching funds under Title XIX of the Social Security Act (the Act) and is reconciled to the monetary advance previously issued by CMS to the state based on estimated state expenditures. The amounts reported on the CMS-64 must represent actual expenditures, and consistent with longstanding requirements, states must have documentation to support their expenditures to ensure a clear audit trail, including by isolating expenditures that are matched at increased rates. States are also responsible for reporting Medicaid collections and overpayments on the CMS-64 and are expected to report these amounts at the same match rate at which the expenditures were originally claimed. As such, if the original Medicaid expenditure was claimed using the FFCRA temporary FMAP increase, the federal share of any collections, overpayments, or recoveries associated with that expenditure should be returned to CMS using the same increased FMAP.

On a quarterly basis CMS reviews the expenditures reported on each state's CMS-64 to ensure that the appropriate amounts are spent, and that higher matching rates are reported correctly. The quarterly reviews are prioritized based on the areas that have the largest impact on federal funds, and enhanced oversight procedures are performed for the 20 states with the highest federal Medicaid expenditures. CMS uses a comprehensive internal review guide to ensure that the expenditure reports for all states are reviewed in a consistent matter, and the review guide is regularly updated to reflect programmatic changes. CMS also conducts periodic trainings to ensure that any updates made to the review guide are thoroughly communicated to the CMS staff responsible for performing the quarterly reviews. In addition, CMS provides guidance and technical assistance to states to assist them with their reporting and ensure that they have the mechanisms and systems in place to track and report expenditures accurately.

The OIG's recommendations and CMS's responses are below.

OIG Recommendation 1

We recommend that CMS require the States to correct the reported Federal share of collections that were subject to the increased COVID-19 FMAP by:

- recouping \$62,504,429 from the 11 States that underreported the Federal share of Medicaid collections and
- refunding \$711,715 to 1 State that overreported the Federal share of Medicaid collections

CMS Response

CMS concurs with this recommendation. Prior to receiving OIG's report, CMS had already begun working collaboratively with states to resolve the issues of underreporting the federal share of Medicaid collections. As of September 2024, 3 states have already corrected their reporting of the federal share of collections that were subject to the increased FMAP, and approximately \$2,509,708 has been returned to CMS. Notably, Pennsylvania has also committed to returning \$30.9 million of the underreported federal share of collections identified by the OIG on its next quarterly filing of its CMS-64. CMS will continue to work with states to ensure the remaining amount of the

underreported federal share of Medicaid collections is returned. CMS will also work with Indiana to refund the \$711,715 overreported federal share of their Medicaid collections.

OIG Recommendation 2

We recommend that CMS emphasize to States that they should consistently follow their procedures for calculating the Federal share of collections, including during periods of increased FMAPs.

CMS Response

CMS concurs with this recommendation. CMS will remind states that they should be consistently following their procedures for calculating the federal share of any collections, including during any periods in which there is an increased FMAP.

OIG Recommendation 3

We recommend that CMS reinforce with reviewers that they should verify that the increased Federal share for TPL collections was properly supported.

CMS Response

CMS concurs with this recommendation. CMS will remind reviewers that, when appropriate, they should ensure the federal share of Third Party Liability (TPL) collections is properly supported, including by accounting for any increased FMAP that may be available. However, as noted above, the FFCRA's temporary FMAP increase was gradually phased down between April 1 and December 31, 2023 and is no longer available to states.

OIG Recommendation 4

We recommend that CMS revise its policies and procedures for reviewing States' reported collections to include review of States' calculations of the Federal share for all collections.

CMS Response

CMS concurs with this recommendation. Given the limited resources available to conduct oversight of all federal financial participation (FFP) claimed by states for all Medicaid expenditures, CMS conducts its quarterly CMS-64 reviews on a risk basis. CMS appreciates the information included in the OIG's report, and will assess how best to revise its policies and procedures to address the risk identified by the findings of this audit.

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