

Department of Health and Human Services

**OFFICE OF  
INSPECTOR GENERAL**

**NORTH CAROLINA RECEIVED  
MILLIONS IN UNALLOWABLE  
BONUS PAYMENTS**

*Inquiries about this report may be addressed to the Office of Public Affairs at  
[Public.Affairs@oig.hhs.gov](mailto:Public.Affairs@oig.hhs.gov).*



**Daniel R. Levinson  
Inspector General**

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# ***Office of Inspector General***

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## EXECUTIVE SUMMARY

*North Carolina received more than \$34.8 million in unallowable performance bonus payments under the Children's Health Insurance Program Reauthorization Act for fiscal years 2011 through 2013.*

### 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 (A-04-14-08028 and A-04-14-08029), 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 North Carolina received for FYs 2011 through 2013 because preliminary analysis indicated inconsistencies between the enrollment of children in Medicaid that North Carolina reported when requesting bonus payments and the enrollment reflected in the Medicaid Statistical Information System maintained by the Centers for Medicare & Medicaid Services (CMS). North Carolina received more than \$42.7 million in bonus payments for the FYs we reviewed.

The objective of our audit was to determine whether the bonus payments that North Carolina 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 North Carolina Department of Health and Human Services' Division of Medical Assistance (State agency) administers North Carolina's Medicaid program and requested the bonus payments that North Carolina received for FYs 2011 through 2013 (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

Most of the bonus payments that North Carolina received for the audit period were not allowable in accordance with Federal requirements. Most of the data used in North Carolina's bonus payment calculations were in accordance with Federal requirements. However, the State agency overstated its FYs 2011 through 2013 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 North Carolina \$34,813,442 in bonus payments.

## **WHAT WE RECOMMEND**

We recommend that the State agency refund \$34,813,442 to the Federal Government.

## **STATE AGENCY COMMENTS**

In written comments on our draft report, the State agency acknowledged that it inadvertently included individuals with nonqualifying BOE codes in its current enrollment. However, State agency officials disagreed with our recommendation. They believed that it would be inequitable to require reimbursement to the Federal Government because there were no promulgated rules on which they could rely, and they, along with other States, had difficulty following CMS's guidance.

## **OFFICE OF INSPECTOR GENERAL RESPONSE**

We disagree with the State agency's contention that CMS had not established guidance on which it could rely during the bonus application process. CMS issued a State Health Official (SHO) letter in 2009 to provide states with guidance and clarification on CHIPRA bonus payments. In addition, in an email to the State agency dated December 12, 2011, CMS provided detailed instructions to ensure that the State agency appropriately developed its metric for determining North Carolina's current enrollment. In addition, the State agency included in each of its enrollment submissions to CMS for FYs 2011 through 2013 a statement that the enrollment number provided "reflects that metric for children under the [Medicaid Statistical Information System] basis of eligibility 'BOE' codes 4, 6, and 8, discussed in the CMS guidance." Even though the State agency's inclusion of ineligible individuals with other BOE codes may have been inadvertent, these statements show that the State agency was aware that its current enrollment should include only individuals with BOE codes 4, 6, and 8.

Therefore, after our review and consideration of the State agency's comments, we maintain that our findings and recommendation 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 previous audits of CHIPRA bonus payments in other States,<sup>1</sup> 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 North Carolina received for FYs 2011 through 2013 because preliminary analysis indicated inconsistencies between the enrollment of children in Medicaid that North Carolina 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). North Carolina received more than \$42.7 million in bonus payments for the FYs we reviewed.

### OBJECTIVE

Our objective was to determine whether the bonus payments that North Carolina 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 North Carolina Department of Health and Human Services' Division of Medical Assistance (State agency) administers North Carolina's Medicaid program.

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

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<sup>1</sup> See Appendix A for details.

The MMIS is an integrated group of procedures and computer processing operations 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 claim 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 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 North Carolina received for FYs 2011 through 2013. Appendix B contains the details of North Carolina's current enrollment calculations for these FYs.

### **HOW WE CONDUCTED THIS REVIEW**

We reviewed the bonus payments that North Carolina received for FYs 2011 through 2013 (audit period), totaling \$11,567,319, \$18,594,703, and \$12,576,714, 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**

Most of the bonus payments that North Carolina received for the audit period were not allowable in accordance with Federal requirements. Most of the data used in North Carolina's bonus payment calculations were in accordance with Federal requirements. However, the State agency overstated its FYs 2011 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 North Carolina \$34,813,442 in bonus payments.

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

The State agency reported CHIPRA current enrollments of 951,065, 999,646, and 1,018,167 for FYs 2011 through 2013, respectively. According to CMS guidance,<sup>2</sup> 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 used the same information and basis (i.e., BOE codes) that CMS uses to develop States' baseline enrollment.<sup>3</sup>

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 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. Had it

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<sup>2</sup> CMS, SHO Letter #09-015, CHIPRA #10, and CMS email to State agency on December 12, 2011.

<sup>3</sup> 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.

followed Federal requirements, the State agency would have reported the correct number for current enrollment for FYs 2011 through 2013 as depicted in Table 1.

**Table 1: North Carolina Medicaid Enrollment**

<b>Current Enrollment<sup>4</sup></b>	<b>FY 2011</b>	<b>FY 2012</b>	<b>FY 2013</b>
State-reported number	951,065	999,646	1,018,167
Correct number	877,470	926,855	946,741
<b>Overstatement</b>	<b>73,595</b>	<b>72,791</b>	<b>71,426</b>

**NORTH CAROLINA RECEIVED MORE THAN \$34.8 MILLION IN UNALLOWABLE BONUS PAYMENTS**

CMS calculated excessive CHIPRA bonus payments to North Carolina because the State agency overstated its CHIPRA current enrollments for FYs 2011 through 2013. (See Table 1.) As a result, North Carolina received unallowable bonus payments of \$10,180,176, \$14,754,407, and \$9,878,859 for FYs 2011 through 2013, respectively. We recalculated the bonus payments using the correct CHIPRA current enrollments for these FYs and found that North Carolina should not have received a total of \$34,813,442 in bonus payments for the FYs reviewed (Table 2).

**Table 2: North Carolina Bonus Payments**

	<b>FY 2011</b>	<b>FY 2012</b>	<b>FY 2013</b>	<b>Total</b>
Bonus payment received	\$11,567,319	\$18,594,703	\$12,576,714	\$42,738,736
Correct bonus payment	1,387,143	3,840,296	2,697,855	7,925,294
<b>Bonus Payment Not Allowed</b>	<b>\$10,180,176</b>	<b>\$14,754,407</b>	<b>\$9,878,859</b>	<b>\$34,813,442</b>

**RECOMMENDATION**

We recommend that the State agency refund \$34,813,442 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 inadvertently included individuals from nonqualifying BOE codes in its current enrollment. However, State agency officials disagreed with our recommendation. They believed that it would be inequitable to require reimbursement to the Federal Government because there were no promulgated rules on which they could rely, and they, along with other States, had difficulty following CMS’s guidance.

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<sup>4</sup> See Appendix B, Tables 3 and 4, for a monthly detail of the State agency’s reported current enrollment numbers and our calculated current enrollment numbers.

Furthermore, State agency officials said that they had several discussions with CMS officials to obtain clarification of CMS's guidelines and to ensure that the State agency was submitting its current enrollment in accordance with these guidelines. It was their understanding that they were applying the correct methodology for determining North Carolina's current enrollment on the basis of conversations they held with CMS officials. Therefore, the State agency believed that the bonus payments were allowable in accordance with Federal requirements when it requested each bonus payment.

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

## **OFFICE OF INSPECTOR GENERAL RESPONSE**

We disagree with the State agency's contention that CMS had not established guidance on which it could rely during the bonus application process. CMS issued a State Health Official (SHO) letter in 2009 to provide states with guidance and clarification on CHIPRA bonus payments. In addition, in an email to the State agency dated December 12, 2011, CMS provided detailed instructions to ensure that the State agency appropriately developed its metric for determining North Carolina's current enrollment. This guidance 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). This guidance further stated, "As indicated in the SHO, the FY 2007 baseline enrollment was established for each State based on States' data submitted through the Medicaid Statistical Information System (MSIS) and using the following 'Basis of Eligibility' (BOE) codes for children:

- 4 Child (not child of unemployed Adult, not foster care child)[,]
- 6 Child of Unemployed adult, [or]
- 8 Foster care child" (original emphasis).

In addition, the State agency included in each of its enrollment submissions to CMS for FYs 2011 through 2013 a statement that the enrollment number provided "reflects that metric for children under the MSIS basis of eligibility 'BOE' codes 4, 6, and 8, discussed in the CMS guidance." Even though the State agency's inclusion of ineligible individuals with other BOE codes may have been inadvertent, these statements show that the State agency was aware that its current enrollment should include only individuals with BOE codes 4, 6, and 8. Although the State agency's comments reference correspondence and discussions with CMS, the State agency has not presented any documentation indicating that CMS approved its inclusion of individuals with BOE categories other than 4, 6, and 8.

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

**APPENDIX A: RELATED OIG REPORTS**

<b>Report Title</b>	<b>Report Number</b>	<b>Date Issued</b>
<i>Alabama Received Millions in Unallowable Performance Bonus Payments Under the Children’s Health Insurance Program Reauthorization Act</i>	<a href="#"><u>A-04-12-08014</u></a>	8/27/2013
<i>Washington Received Millions in Unallowable Bonus Payments</i>	<a href="#"><u>A-04-14-08028</u></a>	9/9/2014
<i>Louisiana Received More Than \$7.1 Million in Unallowable Bonus Payments</i>	<a href="#"><u>A-04-14-08029</u></a>	7/10/2014
<i>Wisconsin Received Some Unallowable Bonus Payments</i>	<a href="#"><u>A-04-13-08021</u></a>	3/18/2015

## **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 2011 THROUGH 2013 CURRENT ENROLLMENT**

The State agency calculated its CHIPRA current enrollments for each of the three FYs (2011 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 on the next page outlines the State agency's reported current enrollments.

**Table 3: State Agency’s Reported Current Enrollments**

<b>Month</b>	<b>Qualifying Children</b>		
	<b>FY 2011</b>	<b>FY 2012</b>	<b>FY 2013</b>
Oct	945,028	976,683	1,016,001
Nov	945,793	981,455	1,015,703
Dec	945,556	985,791	1,015,732
Jan	946,151	991,660	1,017,914
Feb	947,200	994,328	1,018,237
Mar	949,528	998,736	1,017,886
Apr	949,079	1,000,754	1,016,989
May	950,942	1,005,117	1,016,421
Jun	952,169	1,008,352	1,016,805
Jul	953,175	1,013,256	1,019,214
Aug	958,577	1,019,329	1,022,620
Sep	969,603	1,020,287	1,024,487
<b>Total</b>	<b>11,412,801</b>	<b>11,995,748</b>	<b>12,218,009</b>
<b>Monthly Average (Total/12)</b>	<b>951,065<sup>5</sup></b>	<b>999,646</b>	<b>1,018,167</b>

**OFFICE OF INSPECTOR GENERAL’S CALCULATION OF FISCAL YEARS 2011 THROUGH 2013 CURRENT ENROLLMENT**

In accordance with Federal requirements, we calculated North Carolina’s CHIPRA current enrollments for FYs 2011 through 2013 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. Table 4 on the next page outlines our calculated current enrollments.

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<sup>5</sup> The State agency reported current enrollment of 951,065 for FY 2011 to CMS. Because CMS calculated North Carolina’s FY 2011 bonus payment using this enrollment number, we also relied on it in determining the overpayment amount. However, the average of the FY 2011 monthly enrollment totals from the supporting documentation that we obtained from the State agency was 951,067. The difference was not material and appeared to be the result of rounding.

**Table 4: OIG Calculated Current Enrollments**

<b>Month</b>	<b>Qualifying Children</b>		
	<b>FY 2011</b>	<b>FY 2012</b>	<b>FY 2013</b>
Oct	871,260	903,391	943,808
Nov	872,206	908,492	943,446
Dec	871,964	912,755	943,824
Jan	872,464	918,323	945,869
Feb	873,922	921,136	946,310
Mar	875,916	925,951	946,216
Apr	875,670	928,507	945,254
May	877,512	932,658	944,909
Jun	878,750	935,843	945,440
Jul	879,403	940,687	947,970
Aug	884,669	946,739	952,558
Sep	895,908	947,779	955,289
<b>Total</b>	<b>10,529,644</b>	<b>11,122,261</b>	<b>11,360,893</b>
<b>Monthly Average (Total/12)</b>	<b>877,470</b>	<b>926,855</b>	<b>946,741</b>

## APPENDIX C: AUDIT SCOPE AND METHODOLOGY

### SCOPE

We reviewed the bonus payments that the State agency received for FYs 2011 through 2013, totaling \$11,567,319, \$18,594,703, and \$12,576,714, 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 Raleigh, North Carolina, from July through October 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 calculations<sup>6</sup> of North Carolina's bonus payments for FYs 2011 through 2013;
- verified supporting documentation for all data elements used in North Carolina'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,
  - understand the State agency's methodology for determining the current enrollment reported in its requests for bonus payments, and

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<sup>6</sup> 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 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 North Carolina's enrollment and expenditure data from the CMS MSIS State Summary Datamart;
- calculated North Carolina's FYs 2011 through 2013 current enrollment;
- recalculated North Carolina'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 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.<sup>7</sup> Additional guidance provided by CMS<sup>8</sup> 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 points ....<sup>9</sup>

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 for FYs 2010 through 2012 and 3 percentage points for FY 2013.”<sup>10</sup>

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.<sup>11</sup>

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.

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<sup>7</sup> Section 2105(a)(3)(A) of the Act.

<sup>8</sup> CMS, SHO Letter #09-015, CHIPRA #10.

<sup>9</sup> Enrollment data for FY 2007 were obtained from the MSIS.

<sup>10</sup> Sections 2105(a)(3)(C)(iii)(II) and (III) of the Act.

<sup>11</sup> CMS, SHO Letter #09-015, CHIPRA #10.

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.<sup>12</sup>

## **CMS GUIDANCE FOR CURRENT ENROLLMENT CALCULATION**

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).

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<sup>12</sup> CMS, SHO Letter #09-015, CHIPRA #10.

## APPENDIX E: STATE AGENCY COMMENTS



### North Carolina Department of Health and Human Services

Pat McCrory  
Governor

Aldona Z. Wos, M.D.  
Ambassador (Ret.)  
Secretary DHHS

May 7, 2015

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

Re: Report Number: A-04-14-08035

Dear Ms. Pilcher:

We have reviewed your draft report entitled *North Carolina Received Millions in Unallowable Bonus Payments*. The following is North Carolina's response to the Office of Inspector General's (OIG) Findings and Recommendation.

#### OIG FINDINGS

"Most of the bonus payments that North Carolina received for the audit period were not allowable in accordance with Federal requirements. Most of the data used in North Carolina's bonus payment calculations were in accordance with Federal requirements. However, the State agency overstated its FYs 2011 through 2013 current enrollment in its bonus requests to CMS because it included individuals who did not qualify because of their basis-of-eligibility code. As a result, CMS overpaid North Carolina \$34,813,442 in bonus payments."

#### OIG RECOMMENDATIONS

"We recommend that the State agency refund \$34,813,442 to the Federal Government."

#### DHHS Response:

The OIG audit concludes that there was an overpayment in the bonus payments due to North Carolina's enrollment submissions which included children who fell outside basis-of-eligibility (BOE) codes 4, 6, and 8. Although North Carolina attempted to abide by Centers for Medicare and Medicaid Services' (CMS) guidance, it inadvertently included children in the enrollment submissions who did not fall under BOE codes 4, 6, or 8. North Carolina disagrees with OIG's recommendation because it would be inequitable under the circumstances to require reimbursement.

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Mailing Address: 2001 Mail Service Center • Raleigh, NC 27699-2001  
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There were no promulgated rules on which North Carolina could rely in this process. CMS guidance in State Health Official (SHO) # 09-015 states: "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." CMS committed to working with the States to obtain enrollment numbers and North Carolina availed itself of CMS assistance.

In October 2011, North Carolina first submitted its original FFY2011 enrollment numbers to CMS. In preparing its enrollment numbers for submission to CMS, North Carolina engaged in discussions with CMS to understand CMS' interpretation of its published guidelines. As is apparent from a review of the history of North Carolina's 2011 enrollment submissions to CMS, North Carolina revised its initial FFY2011 enrollment submission to CMS three times, including a revision following a series of communications with CMS regarding the methodology.

In 2012, in a continuing effort to assure that North Carolina was correctly submitting its enrollment numbers, North Carolina requested confirmation from CMS that the enrollment method that North Carolina was employing was correct. There were a number of email and telephone communications regarding North Carolina's enrollment numbers. At no time did CMS inform North Carolina, nor did North Carolina understand, that it was employing an incorrect methodology or that it was claiming a bonus well in excess of the amount that had been estimated for North Carolina.

In addition to the difficulty of understanding SHO # 09-015, North Carolina was using data that did not contain BOE codes during this time. North Carolina then matched BOE descriptions identified in the SHO letter to the relevant program aid categories. After doing this, North Carolina contacted CMS to describe its process and methodology and understood it was correctly determining its enrollment numbers of qualifying children. At the time of each submission of enrollment numbers, North Carolina believed that its submissions were correct and that the bonus payments received for the audit periods were allowable and in accordance with Federal requirements and published guidelines.

Furthermore, it is clear that North Carolina was not the only state to experience difficulty interpreting and abiding by CMS' guidance on this issue. It is public knowledge that Washington, Louisiana, and Alabama have already experienced similar findings and it appears that similar findings will likely be identified with many other states' enrollment number submissions.

Additionally problematic is the fact that basing the bonus payments on BOE codes resulted in inconsistent determinations among the states and did not provide an accurate picture of a state's qualifying children, as that term is defined by federal law. CMS recognized this issue of inconsistency with BOE codes in guidance posted on its website. In a published response to a FAQ on its website found at <https://questions.cms.gov/faq.php?id=5005&faqId=2431>, CMS states the following:

As a result of differences in state approaches for classifying children into BOE groups, researchers wanting to study children should probably use an age sort, instead of the child BOE. Otherwise, some persons under age 21 (or whatever age cutoff is used) in some states will be missed, because they are reported in the adult BOE. This is because states vary in how they assign non-disabled, non-aged individuals to the child and adult BOEs. Some states assign the BOE of child and adult based on age. That is, they use an age sort, so that all non-disabled persons under age 19 (age 20 or age 21, depending on the state) are counted as children. Then, all the non-disabled persons under age 65 and over age 18 (age 19 or age 20, depending on the state) are counted as adults. In other states, the BOE of child or adult is based on an individual's position in the family unit applying for Medicaid. This generally means that children are reported in the child BOE and parents

and caretaker relatives are reported in the adult BOE. With this approach, teenage parents will be reported in the adult BOE, not in the child BOE.

Not only does this guidance recognize that any given BOE code may not mean what it appears to mean, it further recognizes that states vary in their approaches to assigning individuals to BOE codes. Thus, developing a bonus payment system premised solely on BOE codes 4, 6, and 8 could exclude qualifying children, could include children who should otherwise be excluded, and could also result in wildly different bonus payments among similarly situated states.

For the reasons explained above, North Carolina respectfully disagrees with the findings and the recommendation of reimbursing \$34.8 million.

Thank you for this opportunity to respond to OIG's draft report. Please feel free to contact me with any questions.

Sincerely,



Aldona Z. Wos, M.D.

AZW:mrj

cc: Sherry Bradsher, Deputy Secretary for Human Services  
Matt McKillip, Chief Policy Officer  
Mark Payne, Chief of Staff  
Robin Gary Cummings, M.D., Deputy Secretary of Health Services  
Emery E. Milliken, General Counsel  
Rod Davis, Chief Financial Officer  
Laketha M. Miller, Controller  
Chet Spruill, Director, Office of Internal Audit  
Monica Hughes, Branch Head, Audit Resolution & Monitoring