

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**VIRGINIA 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: January 2019

Report No. A-04-17-08060

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



Why OIG Did This Review

The Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA) applied to 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. Virginia received more than \$60 million in bonus payments for fiscal years (FYs) 2011 through 2013 (audit period).

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

How OIG Did This Review

We reviewed the bonus payments that Virginia 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 Virginia's Medicaid eligibility determinations.

Virginia Received Millions in Unallowable Bonus Payments

What OIG Found

Some of the bonus payments that Virginia received for the audit period were not allowable in accordance with Federal requirements. Most of the data used in Virginia's bonus payment calculations were in accordance with Federal requirements. However, Virginia overstated its current enrollments in its bonus requests to the Centers for Medicare & Medicaid Services (CMS) for FYs 2011 through 2013 because it improperly inflated its current enrollment by a fixed percentage estimate to account for potential retroactive enrollment, instead of using actual enrollment and the adjustment process to account for actual retroactive enrollment. CMS guidance instructed Virginia to calculate current enrollment based on actual enrollment.

As a result of the overstated current enrollment numbers, CMS overpaid Virginia approximately \$13.8 million in bonus payments.

What OIG Recommends and Virginia Comments

We recommend that Virginia refund approximately \$13.8 million to the Federal Government.

Virginia officials confirmed that they added 7 percent to the State's current enrollment numbers in their bonus requests to CMS for the FYs 2011, 2012, and 2013. However, Virginia officials did not concur with our recommendation. The officials alleged that CMS did not provide adequate guidance and did not validate State-submitted enrollment figures. After review and consideration of Virginia's comments, we maintain that our findings and recommendation are appropriate. As cited in Virginia's comments, CMS provided repeated guidance that States must use the same logic and basis for submitting the average monthly enrollment for children for the current FY that CMS used for developing the FY 2007 baseline. This same guidance clearly describes how CMS determined the FY 2007 baseline. Furthermore, additional CMS guidance specified that current enrollment calculations should be based on actual enrollment. By definition, Virginia's addition of 7 percent to its current enrollment numbers was not a reflection of the State's actual enrollment. The fact that CMS did not notify Virginia that it was submitting inaccurate enrollment calculations does not relieve the State of its responsibility to submit accurate calculations in accordance with published CMS guidelines.

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INTRODUCTION

WHY WE DID THIS REVIEW

The Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA) directly affected 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 Virginia received for FYs 2011 through 2013 because preliminary analysis indicated inconsistencies between the enrollment of children in Medicaid that Virginia 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). Virginia received \$60,316,957 in bonus payments for the FYs we reviewed.

OBJECTIVE

Our objective was to determine whether the bonus payments that Virginia 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. Virginia's Department of Medical Assistance Services (State agency) administers Virginia's Medicaid program.

Virginia'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

¹ See Appendix B 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 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 data 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 affected 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 received bonus payments for FYs 2009 through 2013 to offset the costs of increased enrollment of children in Medicaid. A State was 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 was responsible for determining whether a State met the requirements to receive a bonus payment and, if so, the amount of a State's bonus payment. CMS made 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 Virginia received for FYs 2011 through 2013. Appendix C contains the details of Virginia's current enrollment calculations for these FYs.

HOW WE CONDUCTED THIS REVIEW

We reviewed the bonus payments that Virginia received for FYs 2011 through 2013 (audit period), totaling \$24,620,902, \$19,973,322, and \$15,722,733, 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 A 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 Virginia received for the audit period were not allowable in accordance with Federal requirements. Most of the data used in Virginia's bonus payment calculations were in accordance with Federal requirements. However, the State agency overstated its current enrollments in its bonus requests to CMS for FYs 2011 through 2013 because it improperly inflated its current enrollments by a fixed percentage estimate to account for potential retroactive enrollment, instead of using actual enrollment and the adjustment process to account for actual retroactive enrollment. CMS guidance instructed the State agency to calculate current enrollment based on actual enrollment. As a result, CMS overpaid Virginia \$13,761,829 in bonus payments.

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

The State agency reported CHIPRA current enrollments of 535,071, 549,296, and 562,178 for FYs 2011 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 used for reporting under the MSIS. The State's current enrollment should include only individuals whom the State identifies and reports as having a BOE of "child" in the MSIS.

Additionally, CMS guidance required that States use the same logic and basis to calculate current enrollment that CMS used to calculate the baseline enrollment. Furthermore, this guidance specified that current enrollment calculations should be based on actual enrollment.³ CMS established this guidance to ensure that States consistently used the same information and basis that CMS used to develop States' baseline enrollment.

Finally, CMS provided for a bonus payment adjustment process (adjustment process) to address potential retroactive eligibility determinations. CMS guidance states that, under the adjustment process, "the Bonus Payments for a fiscal year may be revised, based on updated data as of the *April 30* following the December of the calendar year after the end of the fiscal

² CMS, State Health Official (SHO) Letter #09-015, CHIPRA #10.

³ CMS email to State agency on Dec. 12, 2011.

year for which the initial Bonus Payment was made” (original emphasis).⁴ By allowing States to recalculate their current enrollment numbers and resubmit them as of April 30 of the following year, CMS aimed to ensure that the actual full FY current enrollment numbers, including retroactive enrollment, would be used in calculating the final amount of the bonus payment for the FY.

The State agency correctly used the same State institutional data source to calculate its current enrollments that it used for MSIS reporting and included only individuals whom the State identified as having a BOE of “child.” However, the State agency incorrectly inflated its current enrollments by approximately 7 percent to account for potential retroactive enrollment. When the State agency tried to reconcile to its own data the baseline enrollment numbers provided by CMS, the State agency’s enrollment numbers were consistently under by approximately 7 percent. The State agency believed that CMS added this 7 percent to account for retroactive enrollment. As a result, the State agency added 7 percent to its current enrollment numbers for estimated retroactive enrollment, instead of using the adjustment process established by CMS to account for actual retroactive eligibility determinations in its current enrollment. The State agency neither obtained CMS approval to add the estimated figure nor resolved the discrepancy between its baseline enrollment calculations and CMS’s baseline enrollment calculations. Because the bonus requests kept getting approved, State agency officials said that they assumed that there was no issue.

Had it followed Federal requirements, the State agency would have reported the current enrollments for FYs 2011 through 2013 as depicted in Table 1.

Table 1: Virginia Medicaid Enrollment

Current Enrollment⁵	FY 2011	FY 2012	FY 2013
State-Reported Number	535,071	549,296	562,178
OIG-Calculated Number	530,428	543,996	556,452
Overstatement	4,643	5,300	5,726

VIRGINIA RECEIVED ALMOST \$13.8 MILLION IN UNALLOWABLE BONUS PAYMENTS

CMS calculated excessive CHIPRA bonus payments to Virginia because the State agency overstated its CHIPRA current enrollments for FYs 2011 through 2013 (Table 1). As a result, Virginia received unallowable bonus payments of \$4,413,694, \$4,747,508, and \$4,600,627 for FYs 2011 through 2013, respectively. We recalculated the bonus payments using the correct CHIPRA current enrollments for these FYs and found that Virginia should not have received a total of \$13,761,829 in bonus payments for the FYs reviewed (Table 2).

⁴ CMS annual email, “Bonus Payment Adjustment Process.”

⁵ See Appendix C, Tables 3 and 4, for the detail of the State agency’s reported current enrollment numbers and our calculated current enrollment numbers.

Table 2: Virginia Bonus Payments

	FY 2011	FY 2012	FY 2013	Total
Bonus Payment Received	\$24,620,902	\$19,973,322	\$15,722,733	\$60,316,957
Correct Bonus Payment	20,207,208	15,225,814	11,122,106	46,555,128
Bonus Payment Not Allowed	\$4,413,694	\$4,747,508	\$4,600,627	\$13,761,829

RECOMMENDATION

We recommend that the State agency refund \$13,761,829 to the Federal Government.

**STATE AGENCY COMMENTS AND
OFFICE OF INSPECTOR GENERAL RESPONSE**

STATE AGENCY COMMENTS

In written comments on our draft report, State agency officials confirmed that they added 7 percent to Virginia’s current enrollment numbers in their bonus requests to CMS for FYs 2011 through 2013. However, State agency officials did not concur with our recommendation. State agency officials alleged that CMS did not provide adequate guidance and did not validate State-submitted enrollment figures.

The State agency also contended that, after discussions with CMS, it was unable to determine how CMS calculated Virginia’s baseline enrollment, so it added seven percentage points to its enrollment figure.

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 appropriate.

We disagree that CMS did not provide adequate guidance. CMS repeatedly provided guidance informing States that they must use the same logic and basis for submitting the average monthly enrollment for children for the current FY that CMS used for developing the FY 2007 baseline. This same guidance clearly describes how CMS determined the FY 2007 baseline. Furthermore, additional CMS guidance specified that current enrollment calculations should be based on actual enrollment. By definition, the State’s addition of 7 percent to its current enrollment numbers was not a reflection of the State’s actual enrollment.

After repeated requests, we were unable to obtain any evidence from the State agency that CMS approved the State's approach to calculating its current enrollment (i.e., adding 7 percent). In the absence of such approval, States must follow CMS's published guidance for the preparation of current enrollment based on actual enrollment. The fact that CMS did not notify the State agency that it was submitting inaccurate enrollment calculations does not relieve the State of its responsibility to submit accurate calculations in accordance with published CMS guidelines.

APPENDIX A: AUDIT SCOPE AND METHODOLOGY

SCOPE

We reviewed the bonus payments that the State agency received for FYs 2011 through 2013, totaling \$24,620,902, \$19,973,322, and \$15,722,733, 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 Richmond, Virginia, from September 2017 through May 2018.

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 calculations⁶ of Virginia's bonus payments for FYs 2011 through 2013;
- verified supporting documentation for all data elements used in Virginia'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,

⁶ 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 Virginia's enrollment and expenditure data from the CMS MSIS State Summary Datamart;
- calculated Virginia's current enrollments for FYs 2011 through 2013 by following CMS guidance;
- recalculated Virginia's 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 B: RELATED OFFICE OF INSPECTOR GENERAL REPORTS

Report Title	Report Number	Date Issued
<i>Alaska Received Millions in Unallowable Bonus Payments</i>	<u>A-04-17-08059</u>	8/9/2018
<i>Idaho Received Millions in Unallowable Bonus Payments</i>	<u>A-04-17-08056</u>	3/30/2018
<i>Kansas Received Millions in Unallowable Bonus Payments</i>	<u>A-04-16-08050</u>	11/3/2017
<i>Ohio Received Millions in Unallowable Bonus Payments</i>	<u>A-04-16-08049</u>	11/3/2017
<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 C: 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 CURRENT ENROLLMENTS FOR FISCAL YEARS 2011 THROUGH 2013

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 and included only individuals whom the State identified as having a BOE of "child." However, the State agency used a different methodology from that established in CMS guidance to compile its current enrollment. The State agency's methodology applied an estimated fixed percentage to the enrollment numbers. On the basis of CMS's guidance, a State's CHIPRA current enrollment should only include the actual current enrollment numbers of those whom the State identified as having a BOE of "child" and should not be inflated by a fixed percentage estimate. Table 3 outlines the State agency's reported current enrollments.

Table 3: State Agency's Reported Current Enrollments

Qualifying Children			
	FY 2011	FY 2012	FY 2013
Monthly Average	535,071	549,296	562,178

OFFICE OF INSPECTOR GENERAL'S CALCULATION OF CURRENT ENROLLMENTS FOR FISCAL YEARS 2011 THROUGH 2013

To calculate Virginia's CHIPRA current enrollments for FYs 2011 through 2013, we had the State agency group its MMIS enrollment data from its current eligibility file into aggregate "child" BOE categories by month for each year. Then, to determine the monthly average of qualifying children for FYs 2011 through 2013, we used the actual monthly enrollment numbers provided by Virginia without applying the estimated fixed percentage that the State agency used in its calculations. Table 4 outlines our calculated current enrollments.

Table 4: OIG-Calculated Current Enrollments

Month	Qualifying Children		
	FY 2011	FY 2012	FY 2013
Oct	527,653	537,511	555,013
Nov	528,396	538,831	555,051
Dec	528,504	539,063	553,820
Jan	528,220	540,742	555,547
Feb	529,173	542,617	556,185
Mar	529,786	542,726	556,979
Apr	529,636	543,146	557,620
May	529,424	544,639	557,164
Jun	531,156	545,482	556,221
Jul	531,934	548,225	557,671
Aug	534,710	551,670	558,502
Sep	536,540	553,305	557,656
Total	6,365,132	6,527,957	6,677,429
Monthly Average (Total/12)	530,428	543,996	556,452

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.⁷ Additional guidance provided by CMS⁸ 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 points⁹

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 2013.¹⁰

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.¹¹

⁷ Section 2105(a)(3)(A) of the Act.

⁸ CMS, SHO Letter #09-015, CHIPRA #10.

⁹ Enrollment data for FY 2007 were obtained from the MSIS.

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

¹¹ 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.¹²

CMS GUIDANCE FOR CURRENT ENROLLMENT CALCULATION

In guidance provided to States in October 2009, CMS requested that in reporting their current enrollment, States include a description of the data sources and methodologies they used to appropriately identify individuals with a BOE of “child.”¹³

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).¹⁴

CMS GUIDANCE FOR THE BONUS PAYMENT ADJUSTMENT PROCESS

CMS provided guidance on the bonus payment adjustment process to States in a yearly email. The email stated, “Under the Bonus Payment adjustment process, the Bonus Payments for a fiscal year may be revised, based on updated data as of the *April 30* following the December of the calendar year after the end of the fiscal year for which the initial Bonus Payment was made” (original emphasis).¹⁵

This guidance also provided that the initial FY bonus payment amount for each State that was calculated the previous December may be updated under the bonus payment adjustment process. Accordingly, CMS requested that each State provide any updates to the average monthly enrollment data by April 30. Again, the particular concern in the bonus payment adjustment process was to ensure that the full/correct FY monthly average unduplicated number of qualifying children enrollment data be used in calculating the amount of the bonus payments, *“particularly to address concerns that such data might not reflect the full enrollment*

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

¹³ CMS, BP-Clarification3.docx.

¹⁴ CMS email, “Subject: VA-Request for Review of Data Related to Calculation of 2011 Performance Bonus. . . .”

¹⁵ CMS annual email, “Bonus Payment Adjustment Process.”

for the fiscal year, especially as relates to potential retroactive eligibility determinations”
(emphasis added).

APPENDIX E: STATE AGENCY COMMENTS



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October 25, 2018

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Re: Report Number A-04-17-08060

Dear Ms. Pilcher,

Thank you for the opportunity to comment on the Office of the Inspector General (OIG) draft report entitled "Virginia Received Millions in Unallowable Bonus Payments" (A-04-17-08060). The following is the Virginia Department of Medical Assistance Services' (DMAS) response to the finding and recommendation contained in that draft report.

The audit found that Virginia received some CHIPRA bonus payments that were not allowable because Virginia's enrollment submissions included an approximately seven percent inflation factor to account for retroactive enrollment. The audit contends that as a result of these alleged overstated enrollment numbers, Virginia received \$13,761,829 in unallowable CHIPRA bonus payments. The audit recommends that Virginia return this amount to the federal government. DMAS disagrees with the OIG's recommendation.

The Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA) provided funds for qualifying states to receive performance bonus payments (CHIPRA bonus payments) in Federal Fiscal Years (FFY) 2009 through 2013. These payments were awarded for

meeting certain qualifying criteria and meeting or exceeding children's enrollment benchmarks. Virginia received a total of \$60,316,957 in CHIPRA bonus payments for FFY 2011 - 2013.

Virginia did not begin qualifying for the CHIPRA bonus payments until FFY 2011. In the first two years of the program (2009 and 2010), Virginia was in the process of implementing changes to the program that would result in its eligibility for bonus payments. Virginia met the programmatic requirements in FY 2011 and applied for its first CHIPRA bonus payment at that time.

There were no promulgated rules on which states could rely in the process of determining the enrollment numbers to submit to CMS. 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." Virginia engaged in discussions with CMS to understand CMS' interpretation of its published guidelines. However, CMS staff never provided an explanation as to why their baseline data was higher than DMAS' and the figures were never reconciled. Given CMS' repeated guidance that "The same logic and basis that was used for developing the FY 2007 baseline should be used by each State for submitting the average monthly enrollment for children for the current fiscal year for which the bonus payment is being determined," DMAS added seven percentage points on to its enrollment figure for each of the three years where it submitted enrollment for CHIPRA bonus payments. DMAS noted in each of its enrollment submissions that enrollment had been adjusted.

Despite its commitment to validate enrollment data submitted by states, CMS never informed DMAS that it was employing an incorrect methodology. Additionally, CMS never indicated that there were inconsistencies between the enrollment reported when requesting bonus payments and the enrollment reflected in the Medicaid Statistical Information System (MSIS). CMS appears to have failed to validate enrollment data submitted by Virginia.

Virginia is one of several states that have experienced issues with the enrollment data it submitted for CHIPRA bonus payments. As of this writing, OIG has issued findings to eleven other states alleging that they had received unallowable CHIPRA bonus payments due to alleged problems with how they calculated their enrollment submissions. In most of these other cases, the states allege that they received inadequate guidance from CMS regarding the enrollment calculations and CMS failed to validate the enrollment data that was submitted. Virginia echoes the arguments of these other states – CMS did not provide adequate guidance and did not validate state-submitted enrollment figures.

Ms. Lori S. Pilcher
October 25, 2018
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Respectfully, Virginia does not concur with this report's recommendation that the state return \$13.7 million to the federal government. Thank you for the opportunity to comment on this report, as well as for your staff's professionalism and courtesy during the course of the audit.

Sincerely,



Jennifer S. Lee, M.D.

cc: Karen Kimsey, DMAS
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