



OCT 24 2002

**TO:** Neil Donovan  
Director, Audit Liaison Staff  
Centers for Medicare & Medicaid Services

**FROM:** Dennis J. Duquette *Duquette*  
Deputy Inspector General  
for Audit Services

**SUBJECT:** Audit of Oklahoma Medicaid School-Based Services Provided Free to Other Students and Not Exempt Under the Individuals with Disabilities Education Act (A-06-01-00077)

As part of the Office of Inspector General's self-initiated audit work, we are alerting you to the issuance within 5 business days of our final report entitled, "Audit of Oklahoma Medicaid School-Based Services Provided Free to Other Students and Not Exempt Under the Individuals with Disabilities Education Act." A copy of the report is attached. This report is one in a series of reports in our multi-state initiative focusing on direct costs claimed for Medicaid school-based health services. We suggest you share this report with the Centers for Medicare & Medicaid Services (CMS) components involved in program integrity, provider issues, and state Medicaid agency oversight, particularly the Center for Medicaid and State Operations.

The objective of our review was to determine whether school districts in Oklahoma billed Medicaid for school-based health services that were (1) provided free to other students, and (2) not exempt under the Individuals with Disabilities Education Act (IDEA).

We found Oklahoma lacks procedures to ensure that health services billed under the non-IDEA system were not provided free to all students. Based on our review and additional documentation provided by the state after issuance of the draft report, the services provided to the 100 selected beneficiaries we reviewed were all incorrectly billed. Services for 97 of the beneficiaries were billed incorrectly because the services were provided free to other students and were not exempt under the IDEA program. The claims for the remaining three beneficiaries were billed incorrectly because these beneficiaries and services were IDEA eligible and should have been billed under the IDEA program. Based on a projection of the statistical sample, we estimated at least \$1,902,390 in federal financial participation was for services not in compliance with federal guidelines and CMS policy.

We recommended Oklahoma:

1. Make a financial adjustment of \$1,902,390 to CMS for the federal share of payments made for services provided in state fiscal year 2000 that were not in compliance with federal guidelines and CMS policy.

2. Review the claims of the remaining beneficiaries with services billed under the non-IDEA system and make the appropriate adjustments.
3. Implement better oversight and guidance related to Medicaid school-based health services.
4. Review prior and future periods not covered in the audit period and make appropriate adjustments.

In a written response to our draft report, the state did not concur with the 100 percent error rate that we reported in our draft report. Based upon information provided to us by the state, we revised our final report, which shows an error amount at the lower limit of the 90 percent two-sided confidence interval. We summarized the state's comments and responded to those comments at the end of the FINDINGS AND RECOMMENDATIONS section of the report and included the comments in their entirety in APPENDIX C to the report.

Any questions or comments on any aspect of this memorandum are welcome. Please address them to George M. Reeb, Assistant Inspector General for the Centers for Medicare and Medicaid Audits, at (410) 786-7104 or Gordon L. Sato, Regional Inspector General for Audit Services, Region VI, at (214) 767-8414.

Attachment

**Department of Health and Human Services**

**OFFICE OF  
INSPECTOR GENERAL**

**AUDIT OF OKLAHOMA MEDICAID  
SCHOOL-BASED SERVICES PROVIDED  
FREE TO OTHER STUDENTS  
AND NOT EXEMPT UNDER THE INDIVIDUALS  
WITH DISABILITIES EDUCATION ACT**



**JANET REHNQUIST**  
Inspector General

**OCTOBER 2002**  
A-06-01-00077



OCT 29 2002

Common Identification Number: A-06-01-00077

Mike Fogarty  
Chief Executive Officer  
Oklahoma Health Care Authority  
4545 N. Lincoln Boulevard, Suite 124  
Oklahoma City, Oklahoma 73105

Dear Mr. Fogarty:

Enclosed are two copies of the Department of Health and Human Services (HHS), Office of Inspector General (OIG), Office of Audit Services' (OAS) final report entitled, "Audit of Oklahoma Medicaid School-Based Services Provided Free to Other Students and Not Exempt Under the Individuals with Disabilities Education Act." We limited our review to state fiscal year 2000. A copy of this report will be forwarded to the action official noted below for review and any action deemed necessary.

Final determination as to actions taken on all matters reported will be made by the HHS action official. We request that you respond to the HHS action official within 30 days from the date of this letter. Your response should present any comments or additional information that you believe may have a bearing on the final determination.

In accordance with the principles of the Freedom of Information Act, 5 U.S.C. 552, as amended by Public Law 104-231, OIG, OAS reports issued to the Department's grantees and contractors are made available to members of the press and general public to the extent information contained therein is not subject to exemptions in the Act which the Department chooses to exercise (see 45 CFR part 5). As such, within 10 business days after the final report is issued, it will be posted to the world wide web at <http://oig.hhs.gov>.

To facilitate identification, please refer to Common Identification Number A-06-01-00077 in all correspondence relating to this report.

Sincerely,

Gordon L. Sato  
Regional Inspector General  
for Audit Services

Enclosures - as stated

Page 2 - Mike Fogarty

**Direct Reply to HHS Action Official:**

Dr. James R. Farris, M.D.  
Regional Administrator  
Centers for Medicare & Medicaid Services  
1301 Young Street, Suite 714  
Dallas, Texas 75202



OCT 29 2002

Common Identification Number: A-06-01-00077

Mike Fogarty  
Chief Executive Officer  
Oklahoma Health Care Authority  
4545 N. Lincoln Boulevard, Suite 124  
Oklahoma City, Oklahoma 73105

Dear Mr. Fogarty:

This report provides you with the results of our audit of Medicaid payments made by the Oklahoma Health Care Authority (OHCA) for school-based health services. The objective of our review was to determine whether school districts in Oklahoma billed Medicaid for school-based health services that were (1) provided free to other students, and (2) not exempt under the Individuals with Disabilities Education Act (IDEA). We limited our review to state fiscal year (SFY) 2000.

Oklahoma schools, if enrolled as Medicaid providers, are entitled to Medicaid reimbursement for certain school-based health services. School-based health services provided to Medicaid eligible children are reimbursable if they are (1) allowable services not provided free to all students or (2) for children with disabilities that have an Individual Education Plan (IEP) or Individual Family Service Plan (IFSP) under the IDEA.

The state established two separate billing code systems. One system was established to bill for health services provided to IDEA qualified children. The other system (non-IDEA system) was established to bill Medicaid for health services provided to Medicaid eligible children that were not under the IDEA program. The OHCA lacks procedures to ensure that health services provided free to all students were not billed under the non-IDEA system.

The state billed a total of \$4.7 million (\$3.3 million federal share) under the non-IDEA system in SFY 2000. Based on our review and additional documentation provided by the state after issuance of the draft report, the services provided to the 100 selected beneficiaries we reviewed were all incorrectly billed. Services for 97 of the beneficiaries were billed incorrectly because the services were provided free to other students and were not exempt under the IDEA program. The claims for the remaining three beneficiaries were billed incorrectly because these beneficiaries and services were IDEA eligible and should have been billed under the IDEA program but we did not consider these claims unallowable.

The Oklahoma schools received federal reimbursement of \$3,344,292 in SFY 2000 for services for which we estimate at least \$1,902,390 in federal financial participation (FFP) was for services not in compliance with federal guidelines and Centers for Medicare & Medicaid Services (CMS) policy. This estimate is based on a variable appraisal at the lower limit of the 90 percent two-sided confidence interval.

We recommended that the OHCA: (1) make a financial adjustment of \$1,902,390 to CMS for the federal share of payments made for services provided in SFY 2000 which were not in compliance with federal guidelines and CMS policy, (2) review the claims of the remaining beneficiaries with services billed under the non-IDEA system and make the appropriate adjustments, (3) implement better oversight and guidance related to Medicaid school-based health services, and (4) review prior and future periods not covered in the audit period and make appropriate adjustments. The OHCA did not concur with all the sampled claims being unallowable as reported in our draft report. Based upon information subsequently provided to us by OHCA showing that the claims for three selected beneficiaries sampled would have been eligible under the IDEA program, we revised our final report which shows an error amount at the lower limit of the 90 percent two-sided confidence interval. The complete text of their comments is included as APPENDIX C.

## INTRODUCTION

### **Background**

The Medicaid program, established by title XIX of the Social Security Act (the Act), was enacted in 1965. Title XIX of the Act authorizes federal grants to states for Medicaid programs to provide medical assistance to persons with insufficient income and resources. Each state Medicaid program is administered by the state in accordance with a state plan approved by CMS. This state plan lists the eligibility groups and standards, the services provided, any applicable service requirements, and payment rates for the services provided. Although a state has flexibility in forming its Medicaid program, it must comply with broad federal requirements.

The CMS has a long-standing “free care” policy under which Medicaid will not reimburse providers for services given to Medicaid patients if the same services are offered for free to non-Medicaid patients.<sup>1</sup> The CMS bases the policy on federal Medicaid law, which requires state Medicaid plans to take available resources into account when determining which services to reimburse.<sup>2</sup>

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<sup>1</sup> The facility must have a fee schedule in place and bill other responsible third-party payers in order for Medicaid to be billed.

<sup>2</sup> Section 1902(a)(17) of the Social Security Act.

The Oklahoma state plan provides that the Medicaid agency must take reasonable measures to determine the legal liability of the third parties who are liable to pay for services furnished under the plan. The CMS *State Medicaid Manual* provides that services available without charge to all individuals in the community may not be reimbursed. On October 22, 1992, CMS issued Dallas Regional Medical Services Letter No. 92-105, which stated, "...it would be improper to bill only for services to Medicaid eligible children and provide services to others without charge. [CMS's] long standing rule is that the provider must either bill all individuals receiving the services, or at least bill all individuals who have third party coverage...."

One exception to the free care rule, section 1903(c) of the Act, prohibits the Secretary of Health and Human Services from refusing to pay or limiting payment for services provided to children with disabilities that are funded under the IDEA. The IDEA program ensures that all children with disabilities have available to them a free appropriate public education that emphasizes special education and related services designed to meet their unique needs and prepare them for employment and independent living. Section 411(k)(13) of the Medicare Catastrophic Coverage Act of 1988 permits Medicaid payment for medical services provided to children under IDEA.

Medicaid will pay for IDEA services whether or not the provider also charges non-Medicaid recipients of these services. The IDEA services must be described in the child's IEP or, for infants or toddlers, in an IFSP.

In August 1997, CMS issued a technical assistance guide<sup>3</sup> on the Medicaid requirements associated with seeking payment for coverable services rendered in a school-based setting. The purpose of this guide was to provide information and technical assistance regarding the specific federal Medicaid requirements associated with implementing a school health services program and seeking Medicaid funding for school health services. This guide was intended to be a general reference summarizing current applicable law and policy and provided general information and guidelines regarding the specific Medicaid requirements including the Medicaid free care and third-party liability (TPL) requirements and their impact on schools seeking payment for school health services.

The federal and state governments jointly finance state Medicaid programs. The Federal Government's share of states' Medicaid expenditures is generally claimed under two categories, administration and medical assistance payments. For Oklahoma, the federal share for medical assistance payments was 71.09 percent during SFY 2000.

As Oklahoma's single state Medicaid agency, the OHCA is responsible for administering Oklahoma's Medicaid program. We focused our review on the non-IDEA Medicaid services provided in the school setting to Medicaid eligible children. Medicaid reimbursement for school-based services provided to Medicaid beneficiaries not covered by IDEA during SFY 2000 in Oklahoma totaled \$4,704,307, of which \$3,344,292 was the federal reimbursement.

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<sup>3</sup> *Medicaid and School Health: A Technical Assistance Guide*, August 1997.

### **Objective and Scope of Audit**

Our audit was conducted in accordance with generally accepted government auditing standards. The objective of our review was to determine whether school districts in Oklahoma billed Medicaid for school-based health services that were (1) provided free to other students and (2) not exempt under the IDEA.

Our audit was limited to SFY 2000 reimbursements for school-based health services that were provided to Medicaid beneficiaries not covered by the IDEA. We reviewed a statistical sample of 100 beneficiaries covering 44 school districts (see APPENDIX A). Beneficiaries were randomly selected using the Office of Audit Services' (OAS) statistical software random number generator. We used applicable laws, regulations, and Medicaid and Medicare guidelines to determine whether the claims met the reimbursement requirements.

We interviewed appropriate school officials for the selected 100 beneficiaries (44 school districts) to determine if the school district complied with federal guidelines and CMS's policy (see Appendix B). We then reviewed the selected beneficiaries' Medicaid files that supported the claims.

We discussed the objectives of our audit with OHCA and CMS central and regional officials to identify requirements for Medicaid school-based health services. We reviewed only those internal controls considered necessary to achieve our objectives.

Fieldwork was performed at the 44 selected school districts in Oklahoma and at the Oklahoma City field office.

### **FINDINGS AND RECOMMENDATIONS**

Of the services provided to the 100 selected beneficiaries we reviewed in Oklahoma school districts, all were incorrectly billed. We reviewed 300 claims for the selected 100 beneficiaries and found that 100 percent of the services billed for those beneficiaries were billed in error. Services for 97 of the beneficiaries were billed incorrectly because the services were provided free to other students and were not exempt under the IDEA program. Based on information provided by the state after issuance of the draft report, claims for the remaining three beneficiaries were billed incorrectly because these beneficiaries and services were IDEA eligible and should have been billed under the IDEA program but we did not consider these claims unallowable.

Based on our review and the additional documentation, Oklahoma schools received federal reimbursement of \$3,344,292 in SFY 2000 for services for which we estimate at least \$1,902,390 in FFP was not in compliance with federal guidelines and CMS policy. This estimate is based on a variable appraisal at the lower limit of the 90 percent two-sided confidence interval.

Oklahoma school districts billed Medicaid for school-based health services provided free to other students. The school districts did not seek reimbursement from non-Medicaid individuals or third parties. Medicaid is the only party incurring a liability for non-IDEA services provided in the Oklahoma school districts, even though similar services are provided to Medicaid and non-Medicaid recipients alike.

The state established separate procedure codes for Medicaid eligible students who were not in the IDEA program, i.e., did not have an IEP or, for infants or toddlers, in an IFSP, using the same categories of services as IDEA services. Examples of the types of services billed by Oklahoma schools are child health encounters, psychotherapy counseling, and nursing services. Approximately 58 percent of the reviewed claims were billed as child health encounters.

In addition to billing Medicaid inappropriately for all these services, the services billed as child health encounters on the claims we reviewed did not meet the state's definition. The definition of a child health encounter according to the Oklahoma provider manual is that the service may include a diagnosis and treatment encounter, a follow-up health encounter, or a home visit. It may also include a child health history, a physical examination, developmental assessment, social assessment and counseling, genetic evaluation and counseling, indicated laboratory and screening tests, screening for appropriate immunizations, health counseling, and treatment of childhood illness and conditions. Our review of the supporting documentation for the claims billed as child health encounters showed some of the services provided were for classroom lice checks, classroom vision screenings, classroom hearing screenings, and hygiene counseling.

The CMS policy states that if only Medicaid beneficiaries or their third parties are charged for the service, the care is free and Medicaid will not reimburse for the service. An example of free care according to a CMS official is "if a school provides an annual vision screening to all students, all students must be billed for the screening in order for Medicaid to be billed. Medicaid must not be the only party incurring a liability for these services." Also, an example of nursing services in the 1997 CMS technical guide states, "the school cannot charge the Medicaid program for the services of the school nurse, if she furnishes care to all students (not solely Medicaid eligibles) without also charging non-Medicaid students." The IDEA children are an exception to this requirement.

Forty-three of the 44 schools that we interviewed were not aware of the free care rule. Several school officials were not familiar with CMS or the 1997 CMS technical guide. Some school officials said that free care has never been mentioned at the annual state Medicaid meetings. Also, the OHCA did not incorporate free care policy into the 1999 OHCA state provider manual, *EPSDT School-Based Services: An Overview for Providers*, but they did include TPL information. According to state officials, the schools should have been aware of the free care policy because this topic has been discussed at training sessions.

Since our interviews with the school districts, a school official inquired with the state as to whether or not to continue billing for these services. The school official informed us the OHCA officials instructed them to continue billing for the services.

In our opinion, this problem occurred because there is inadequate state guidance in this area. Based on the information provided by the state subsequent to the issuance of the draft report, we estimate the federal reimbursement of \$3,344,292 in SFY 2000 includes at least \$1,902,390 in FFP for services not in compliance with federal guidelines and CMS policy.

### **Recommendations**

Accordingly, we recommended that the OHCA:

1. Make a financial adjustment of \$1,902,390 to CMS for the federal share of payments made for services provided in SFY 2000 which were not in compliance with federal guidelines and CMS policy.
2. Review the claims of the remaining beneficiaries with services billed under the non-IDEA system and make the appropriate adjustments.
3. Implement better oversight and guidance related to Medicaid school-based health services.
4. Review prior and future periods not covered in the audit period and make appropriate adjustments.

### **AUDITEE'S COMMENTS**

The OHCA stated that 200 of 300 claims reviewed were not documented in the audit working papers as required by *Generally Accepted Government Auditing Standard (GAGAS) 4.37*. Based on the OHCA's review of 100 claims, they did not concur with all the sampled claims being unallowable that we reported in our draft report. The OHCA also stated that nine of the recipients were IDEA children. The schools incorrectly coded claims submitted for Medicaid reimbursement.

### **OIG'S RESPONSE**

The GAGAS 4.37 specifically states, "Working papers should contain...descriptions of transactions and records examined that would enable an experienced auditor to examine the same transactions and records." Note six to this standard states that auditors, "are not required to include in the working papers copies of documents they examined nor are they required to list detailed information from those documents." The 300 claims reviewed were documented in our working papers as required by GAGAS 4.37. We provided the OHCA with a list detailing the 300 claims reviewed to support our finding. The OHCA requested an extension of time to respond to the draft report to collect the audited service documentation directly from the schools. The OHCA stated they only reviewed 100 of the 300 claims.

We met with an OHCA program official on July 16, 2002, to review the nine claims that appeared to be billed incorrectly according to OHCA. The OHCA official was unable to identify the nine claims referred to in their response. We later contacted an OHCA internal audit official and they were able to identify the nine claims; however, they did not have the supporting documentation for the claims they stated they reviewed in their response. Also, the OHCA was unable to identify who reviewed the claims. In order to respond to our inquiries about their comments, OHCA had to contact the schools to obtain the Medicaid files. On July 18, 2002, the OHCA obtained Medicaid files for eight of the nine claims. The OHCA was unable to produce documentation for the ninth claim.

We reviewed the eight claims and determined that three beneficiaries were billed incorrectly because these beneficiaries and services were IDEA eligible and should have been billed under the IDEA program but we did not consider these claims unallowable. As a result, the overpayment is now based on a variable appraisal from our sample of 100 beneficiaries. Our estimate of the overpayment is the lower limit of the 90 percent two-sided confidence interval.

#### **AUDITEE COMMENTS**

The auditee described the additional actions taken:

- The OHCA provided notification and education to schools regarding the inappropriateness of billing “mass classroom” screenings through training seminars held for school officials in February 2000 and September 2000.
- The OHCA included the following statement in the *EPSDT Manual* for providers as of August 2000, “Medicaid does not pay for services that are provided free of charge to others.”
- The OHCA’s TPL functions include making every effort to collect from any third party for any Medicaid compensable services - including school-based health services. Although 24 percent of insurance companies registered through the Oklahoma Insurance Commission indicated in an April 2001 survey that benefits might be paid under very specific circumstances or with physician intervention, the administrative time expended by Oklahoma schools to bill third-party insurers, only to meet the requirements ensuring that the care was not classified as “free care,” would not be productive.

#### **OIG’S RESPONSE**

Our discussions with OHCA revealed the state did not attempt to collect from third parties during our review period for school-based services. The OHCA surveyed insurance companies in April 2001, which was after our audit period, and determined 24 percent might pay for school-based health services. According to section 1902 (a)(25) of the Act and 42 CFR 433.138, state Medicaid agencies are required to take reasonable measures to determine the legal liability of the third parties who are liable to pay for services furnished under the state plan.

Such measures include specific requirements to identify and recover payments from liable third parties. If TPL exists but does not cover the specific Medicaid services provided, the provider would have to furnish documentation to the state Medicaid agency that although TPL generally exists for a beneficiary, there is no coverage for the services provided. The provider would need to establish annually thereafter that coverage for those non-covered services has not changed. In our opinion, OHCA's survey does not satisfy the federal "free care" requirements. Therefore, we continue to believe our findings are valid.

# **APPENDICES**

## **SAMPLE METHODOLOGY**

### **Objective:**

Our audit was conducted in accordance with generally accepted government auditing standards. The objective of our review was to determine whether school districts in Oklahoma billed Medicaid for school-based health services that were (1) provided free to other students and (2) not exempt under the IDEA.

### **Population:**

The sampling population was all non-IDEA Medicaid beneficiaries who received health services in Oklahoma school districts and cooperatives during the period July 1, 1999 through June 30, 2000.

### **Sampling Unit:**

The sample unit was a non-IDEA Medicaid beneficiary for which school-based health services were provided during our audit period.

### **Sample Design:**

A simple random sample was used. We randomly pulled 100 beneficiaries from the sampling frame.

### **Sample Size:**

100 sample units (beneficiaries) were selected.

### **Estimation Methodology:**

The estimation methodology was contingent upon our review of a sample of school-based health services rendered to Medicaid eligible, non-IDEA beneficiaries. If we had determined that all of the school-based health services rendered to the beneficiaries in our sample were incorrectly paid, the total amount Medicaid reimbursed the state of Oklahoma for those services would have been disallowed for the period of our review. No projection would have been necessary with 100 percent of the sampling units being paid in error. Based on our sample size, we would have been 95 percent confident there were no more than 3 percent correctly paid sampling units in the population.

Because OHCA had included some IDEA eligible beneficiaries in their non-IDEA billing system, the sampling frame they provided us did not consist solely of non-IDEA Medicaid beneficiaries as we had requested. Our random sample included three IDEA eligible beneficiaries OHCA incorrectly billed under the non-IDEA billing system. Therefore, in our final report, we used an unrestricted variable appraisal to project the sample results. Our estimate of the dollar amount for services not in compliance with federal guidelines was at the lower limit of the 90 percent two-sided confidence interval in our variable appraisal.

**SAMPLE RESULTS**

<b><u>Total Sampling Units</u></b>	<b><u>Sample Size</u></b>
34,991	100

**Variable Appraisal (Unrestricted):**  
**Point Estimate**  
\$ 3,333,960

**90% Confidence Interval**

<b><u>Lower Limit</u></b>	<b><u>Upper Limit</u></b>
\$ 1,902,390	\$ 4,765,530

## APPENDIX B

### SELECTED SCHOOLS

- 1 ADA CITY SCHOOLS
- 2 ARDMORE CITY SCHOOLS
- 3 ATOKA PUBLIC SCHOOLS
- 4 BISHOP PUBLIC SCHOOL
- 5 BOONE-APACHE SCHOOLS
- 6 BROKEN ARROW PUBLIC SCHOOLS
- 7 CANADIAN PUBLIC SCHOOLS
- 8 CATOOSA PUBLIC SCHOOLS
- 9 CEMENT PUBLIC SCHOOLS
- 10 CHANDLER PUBLIC SCHOOLS
- 11 CHEROKEE CO INTERLOCAL
- 12 CLAREMORE PUBLIC SCHOOLS
- 13 CLINTON PUBLIC SCHOOLS
- 14 COMANCHE PUBLIC SCHOOLS
- 15 EL RENO PUBLIC SCHOOLS
- 16 ENID PUBLIC SCHOOLS
- 17 GROVE PUBLIC SCHOOLS
- 18 HAYWOOD PUBLIC SCHOOLS
- 19 HOBART PUBLIC SCHOOLS
- 20 HOLDENVILLE PUBLIC SCHOOLS
- 21 JAY PUBLIC SCHOOLS
- 22 LAWTON PUBLIC SCHOOLS
- 23 LEFLORE COUNTY SPECIAL ED
- 24 LOCUST GROVE PUBLIC SCHOOLS
- 25 MANNFORD PUBLIC SCHOOLS
- 26 MIAMI PUBLIC SCHOOLS
- 27 MID-DEL PUBLIC SCHOOLS
- 28 MULDROW PUBLIC SCHOOL
- 29 MUSKOGEE PUBLIC SCHOOLS
- 30 OILTON PUBLIC SCHOOLS
- 31 OKLAHOMA CITY PUBLIC SCHOOLS
- 32 OKLAHOMA UNION SCHOOLS
- 33 PONCA CITY PUBLIC SCHOOLS
- 34 SAND SPRINGS SCHOOLS
- 35 SPECIAL SERVICES COOP
- 36 STILLWATER PUBLIC SCHOOLS
- 37 TRI-COUNTY INTERLOCAL
- 38 TULSA PUBLIC SCHOOLS
- 39 UNION PUBLIC SCHOOLS
- 40 VANOSS SCHOOL
- 41 VIAN PUBLIC SCHOOLS
- 42 WAGONER SCHOOLS
- 43 WALTERS PUBLIC SCHOOLS
- 44 WELEETKA PUBLIC SCHOOLS

MICHAEL FOGARTY  
CHIEF EXECUTIVE OFFICER



FRANK KEATING  
GOVERNOR

STATE OF OKLAHOMA  
OKLAHOMA HEALTH CARE AUTHORITY

Mr. Gordon Sato  
Regional Inspector General for Audit Services  
Department of Health and Human Services  
Office of Inspector General – Office of Audit Services  
1100 Commerce, Room 632  
Dallas, Texas 75242

June 26, 2002

Dear Mr. Sato,

The Oklahoma Health Care Authority (OHCA) appreciates the opportunity to respond to the audit findings on School-Based Services Provided Free to Other Students and Not Exempt under the Individuals with Disabilities Education Act (IDEA).

Oklahoma believes that school health services play an important role in the health care of adolescents and children. Whether implemented for children with special needs under the Individuals with Disabilities Education Act (IDEA), or for routine preventive care, on-going primary care and treatment.

School-based health services work because they are located where the children are - - they are easily accessible, located in a familiar environment and prevention oriented. A sore throat or earache that is treated in the emergency room is very expensive; the cost of hospitalization for a preventable illness is also very costly. If daily school attendance is reduced, schools lose revenue. These preventive services, ultimately, can save both the Medicaid program and the schools more money in the long run.

Oklahoma recognizes that there are challenges in the collaboration between the Medicaid program and the schools. Many schools are unaccustomed to Medicaid requirements and the complexity of operating in the "medical services world". Understanding when it is, or when it is not, appropriate to bill Medicaid for health encounter services for a Medicaid eligible child is a concern of both the Medicaid program and the schools which participate in school-based health services.

Concerns do not appear to stop at the state level. We are aware that even our Federal partners at CMS have had concerns with regards to the "free care" policy as evidenced by their statement, "We realize the policy may run counter to our intention to encourage school-based services. As a result, HCFA is currently re-examining its "free care" policy, and further guidance on this issue may be available in the near future". (*Dallas Regional Medical Services Letter #94-006.*)

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The following address the OHCA's issues, concerns and comments based upon our review of the draft report dated April 15, 2002.

- 1) In paragraph two of the "Background" section of the report the following statement is made, "The CMS bases the policy on Federal Medicaid law, which requires state Medicaid plans to take available resources into account when determining which services to reimburse." A reference is made to Section 1902(a)(17) of the Social Security Act.

Based upon our review of this reference, it appears that this federal regulation refers to taking into account income and other resources when determining Medicaid **eligibility of the individual**. We do not find any reference in this cite which refers to taking available resources into account when determining which services to reimburse.

- 2) In paragraph two of the "Objective and Scope of Audit" section of the report, the draft report states, "We used applicable laws, regulations and **Medicare** guidelines to determine whether the claims met the reimbursement requirements. It appears that this must have been a mistake and should have said Medicaid.
- 3) The OIG report states that the review was done in accordance with Generally Accepted Government Auditing Standards (GAGAS). Standard 4.37 states that working papers should contain "documentation of the work performed to support significant conclusions and judgments, including descriptions of transactions and records examined that would enable an experienced auditor to examine the same transactions and records." Note 6 to this standard also states, "Auditors may meet this requirement by listing voucher numbers, check numbers, or other means of identifying specific documents they examined."

In the draft report, OIG states, "Of the 100 selected beneficiaries reviewed in Oklahoma school districts, 100 percent were incorrectly billed. We reviewed 300 claims for the selected 100 beneficiaries and found that 100 percent were in error." The OIG audit staff were only able to provide the Oklahoma Health Care Authority with documentation to support the testing of 100 claims - - one per individual recipient selected in the audit sample. OIG audit staff indicated that the additional 200 claims reviewed were not documented in the audit working papers. Therefore, the OHCA was only able to review the services provided in the documented 100 claims.

Based on our review of the 100 individual recipients and 100 claims, we do not concur with a 100 percent error rate. Our review of the 100 documented claims for 100 non-IDEA Medicaid recipients indicated that nine recipients were in fact IDEA children. It appears that the schools had incorrectly coded the claims that were submitted for Medicaid reimbursement. Of the \$2,612.59 sampled, these nine claims totaled \$318.22 or 12.2 percent.

Page Three

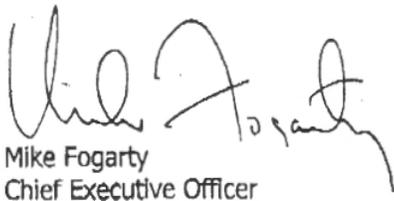
- 3) In January 2000, the Oklahoma Health Care Authority became aware of some schools billing for Medicaid reimbursement when "mass classroom" screenings were performed. In response, the OHCA provided notification and education to the schools regarding the inappropriateness of this billing practice through training seminars held for school officials in February 2000 and in September 2000.
- 4) OHCA included the following statement in the EPSDT Manual for providers as of August 2000, "Medicaid does not pay for services that are provided free of charge to others".
- 5) The Oklahoma State Plan provides that the Medicaid agency must take reasonable measures to determine legal liability of the third parties who are liable to pay for services furnished under the plan. The Oklahoma Health Care Authority takes this requirement very seriously. The OHCA's third party liability functions include making every effort to collect from any third party for any Medicaid compensable service - - including school-based health services.

Additionally, in April 2001, the Oklahoma Health Care Authority sent surveys to all insurance companies registered through the Oklahoma Insurance Commission. Based upon the returned surveys, it appears that 76 percent of the health insurance companies would not reimburse schools for school-based services in any circumstance. The remaining 24 percent indicated that benefits might be paid under very specific circumstances or with physician intervention. These survey results indicate that the administrative time expended by Oklahoma schools to bill third party insurers, only to meet the requirements ensuring that the care was not classified as "free care", would not be productive.

We would appreciate your review and consideration of these comments.

And finally, in closing, we feel that in recognizing the important role school health services can play, the Oklahoma Medicaid program has been supportive of school-centered health care as an effective method of providing access to essential medical care to Medicaid eligible children.

Sincerely,



Mike Fogarty  
Chief Executive Officer