

**Department of Health and Human Services**

**OFFICE OF  
INSPECTOR GENERAL**

**REVIEW OF MEDICAID PAYMENTS  
FOR OUTPATIENT SERVICES AND  
PRESCRIPTION DRUGS PROVIDED TO  
INCARCERATED RECIPIENTS IN THE  
STATE OF MISSOURI**



**JANET REHNQUIST  
INSPECTOR GENERAL**

**OCTOBER 2002  
A-07-02-03020**

# *Office of Inspector General*

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Region VII  
601 East 12th Street  
Room 284A  
Kansas City, Missouri 64106

CIN: A-07-02-03020

October 4, 2002

Ms. Dana Katherine Martin, Director  
Department of Social Services  
Broadway State Office Building  
P.O. Box 1527  
Jefferson City, MO 65102

Dear Ms. Martin:

This final report presents the results of our *Review of Medicaid Payments for Outpatient Services and Prescription Drugs Provided to Incarcerated Recipients in the State of Missouri*. The objective of our review was to determine the extent to which the state used Medicaid funds to pay for prescription drugs and other (non-inpatient/long term care) health care services provided to inmates. Our review covered Medicaid fee-for-service claims paid by Missouri during the period October 1, 1998 through September 30, 2001.

During a prior audit entitled, "Review of Medicare Payments for Services Provided to Incarcerated Beneficiaries" (A-04-00-05568), we determined that the Centers for Medicare & Medicaid Services (CMS) had not obtained recipient data from the Social Security Administration (SSA) that identifies incarcerated recipients. As a result, potentially improper Medicare payments were made by CMS. Based on this work, we undertook a review of Medicaid fee-for-service payments for services provided to incarcerated recipients in four states to determine if the Medicaid program had similar vulnerabilities. The state of Missouri was one of the four states selected for review.

The CMS guidelines and state Medicaid regulations generally provide that Medicaid will not cover outpatient services or the cost of prescription drugs for inmates. We found that improper Medicaid fee-for-service payments for outpatient services and prescription drugs have been made for incarcerated recipients. However, we did not find enough errors in our sample to make a statistically valid projection of the overpayments to the universe. In our opinion, the claims were paid because the state did not fully utilize the available data from SSA to identify incarcerated recipients. We are recommending that the state utilize the data available from the SSA to identify incarcerated recipients to ensure that unallowable payments for services provided to inmates are not made in the future.

The Department of Social Services (DSS) neither agreed nor disagreed with our conclusions and recommendations. Their comments are included in their entirety as Appendix A.

## INTRODUCTION

### BACKGROUND

Generally, national Medicaid policy states that Medicaid Federal Financial Participation (FFP) will not be paid for inmates. The CMS policy, based on Section 1905 of the Social Security Act, is that FFP is not available for services provided to inmates except when the inmate is transferred from the prison grounds to an inpatient facility for medical treatment.

#### **Section 1905. [42 U.S.C. 1396d] For purposes of this title –**

- (a) The term “medical assistance” means payment of part or all of the cost of the following care and services...for individuals, and, with respect to physicians’ or dentists’ services, at the option of the state, to individuals...not receiving aid or assistance under any plan of the state approved under title I, X, XIV, or XVI, or Part A of title IV, and with respect to whom supplemental security income benefits are not being paid under title XVI, who are...

#### **Except as otherwise provided in paragraph (16), such term does not include –**

- (A) any such payments with respect to care or services for any individual who is an inmate of a public institution (**except as a patient in a medical institution**) [Emphasis added]; or...

Additional federal criteria can be found at 42 CFR 435.1008 and 42 CFR 435.1009.

#### **42 CFR 435.1008 Institutionalized individuals.**

- (a) FFP is not available in expenditures for services provided to—  
(1) Individuals who are inmates of public institutions as defined in §435.1009...

#### **42 CFR 435.1009 Definitions relating to institutional status.**

Inmate of a public institution means a person who is living in a public institution. An individual is not considered an inmate if—

- (a) He is in a public educational or vocational training institution for purposes of securing education or vocational training; or

- (b) He is in a public institution for a temporary period pending other arrangements appropriate to his needs.

Public Institution means an institution that is the responsibility of a governmental unit or over which a governmental unit exercises administrative control. The term “public institution” does not include:

- (a) A medical institution as defined in this section;
- (b) An intermediate care facility as defined in §§440.140 and 440.150 of this chapter;
- (c) A publicly operated community residence that serves no more than 16 residents, as defined in this section; or
- (d) A child-care institution as defined in section ...

On December 12, 1997, CMS issued a letter to all Associate Regional Administrators clarifying CMS’ Medicaid coverage policy for inmates of a public institution. In that guidance, CMS lists situations where FFP would and would not be available for services provided to inmates. According to this CMS guidance, FFP would be available for services provided to “inmates who become a patient of a hospital, nursing facility, juvenile psychiatric facility or intermediate care facility for the mentally retarded (Note: subject to meeting other requirements of the Medicaid program).”

## **OBJECTIVE, SCOPE, AND METHODOLOGY**

The objective of our review was to determine the extent to which the state of Missouri used Medicaid funds to pay for prescription drugs and other (non-inpatient/long term care) health care services provided to inmates. Our review covered Medicaid fee-for-service claims paid by Missouri during the period October 1, 1998 through September 30, 2001.

To perform our review, we compared a file of incarcerated individuals provided by SSA to CMS’s Medicaid Statistical Information System (MSIS) file of fee-for-service claims for outpatient and prescription drugs paid during the period October 1, 1998 through September 30, 2001. Based on this comparison, we compiled a database of fee-for-service claims paid on behalf of individuals who had been identified as incarcerated at the time the Medicaid service was rendered. The match for Missouri resulted in 384,730 fee-for-service paid claims totaling \$34,309,585. Using the results of the match, we selected a random sample of 100 Medicaid fee-for-service paid claims totaling \$6,581.

For each sample claim, we validated the data contained in MSIS to the state’s Medicaid Management Information System or paid claims history file. We then determined when and where the recipient was incarcerated. For the most part, the incarceration data from SSA did not identify the prisoner release date. Thus, several steps were performed to determine if the Medicaid payment was made for a service provided during a period of incarceration.

The steps followed included:

- contacting the incarcerating entity (if shown in the SSA database) to inquire about the recipient.
- utilizing Internet sites containing county arrest, conviction, and incarceration information.
- contacting the state’s Highway Patrol Criminal Records Depository and the State Courts Administrator to obtain arrest and incarceration information.
- determining where the beneficiaries and health care providers who billed for the Medicaid services were located and contacting city, county, and local jails in the surrounding area.

We conducted our review in accordance with generally accepted government auditing standards. Our review was limited in scope. Our review was not intended to be a full-scale internal control assessment of the Medicaid agency operations. The objectives of our audit did not require an understanding or assessment of the overall internal control structure of the agency.

We performed our review during the period November 2001 through August 2002. The work was performed at the Department of Social Services-Division of Medical Services in Jefferson City, Missouri; the Centers for Medicare & Medicaid Services in Kansas City, Missouri; and the Region VII-Office of Inspector General, Office of Audit Services field office in Jefferson City, Missouri.

## **RESULTS OF REVIEW**

We found that Medicaid fee-for-service payments for outpatient services and prescription drugs were made for incarcerated recipients. The paid claims were for services that did not meet reimbursement requirements. These claims totaled \$13.

Generally, national Medicaid policy states that Medicaid FFP will not be paid for outpatient services provided to inmates. The CMS policy is that FFP is not available for services provided to inmates except when the inmate is transferred from the prison grounds to an inpatient facility for medical treatment. The CMS’s current policy is based on section 1905 of the Social Security Act, in particular section 1905 (a).

Our review showed that 2 claims of the 100 in our sample were for services provided to recipients who were incarcerated in federal, state, county, or mental health facilities on the date of service. These claims were unallowable because under CMS’ current policy, FFP is not available for outpatient services and prescription drugs provided to incarcerated recipients.

The following table summarizes the results of our review:

<i>Description</i>	<i>Sample Amount</i>	<i>Number of Claims</i>	<i>Number of Recipients</i>
<i>Allowable</i>	<b>\$6,568</b>	<b>98</b>	<b>94</b>
<i>Unallowable</i>	<b>13</b>	<b>2</b>	<b>2</b>
<b>Total</b>	<b>\$6,581</b>	<b>100</b>	<b>96</b>

## CONCLUSIONS AND RECOMMENDATION

The state made improper payments for outpatient services and prescription drugs. The payments were made on behalf of incarcerated recipients. In our opinion, the claims were paid because the state did not fully utilize the available data from SSA to identify incarcerated recipients. However, because we did not find enough errors in our sample to make a statistically valid projection of the overpayments to the universe, we are not recommending any financial adjustments.

We are recommending that the state utilize the data available from the SSA to identify incarcerated recipients to ensure that unallowable payments for services provided to inmates are not made in the future.

### Auditee Response

The DSS neither agreed nor disagreed with our conclusions and recommendations. Their comments are summarized below and included in their entirety as Appendix A.

The DSS stated that they use data from the Missouri Department of Corrections to identify incarcerated beneficiaries. Additionally, they use the SSA data to match with the Food Stamp claimants to identify incarcerated beneficiaries. If they discover that a beneficiary is incarcerated, they take the appropriate steps to stop Medicaid benefits.

### OIG Comments

We recognize the efforts that the DSS is currently making to identify possible incarcerated individuals and terminating benefits for those found to be incarcerated. However, we feel that the DSS could utilize the SSA data to a greater extent to identify incarcerated individuals.

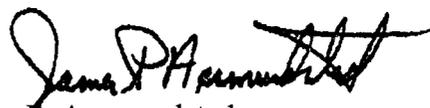
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## INSTRUCTIONS FOR AUDITEE RESPONSE

Final determinations as to actions to be taken on all matters reported will be made by the HHS action official identified below. We request that you respond to the recommendations in this report within 30 days to the HHS action official, presenting any comments or additional information that you believe may have a bearing on 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, Office of Inspector General, Office of Audit Services reports are made available to the public to the extent information contained therein is not subject to exemptions in the Act. (See 45 CFR Part 5). As such, within ten business days after the final report is issued, it will be posted on the world wide web at <http://www.hhs.gov/progorg/oig>.

Sincerely,



James P. Aasmundstad  
Regional Inspector General for  
Audit Services, Region VII

Enclosure

### **CMS Action Official**

Mr. Joe Tilghman  
Regional Administrator, Region VII  
Richard Bolling Federal Building  
601 East 12<sup>th</sup> Street, Room 235  
Kansas City, MO 64106



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Regional Inspector General  
for Audit Services  
Office of Inspector General  
Federal Office Building  
601 East 12<sup>th</sup> Street, Room 284A  
Kansas City, Missouri 64106

Re: CIN A-07-02-03020

Dear Mr. Aasmundstad:

This letter is in response to the recommendation in the draft report entitled, "Review of Medicaid Payments for Outpatient Services and Prescription Drugs Provided to Incarcerated Recipients in the State of Missouri" dated August 30, 2002. We are pleased that your sample did not reveal sufficient payment errors to warrant any recovery.

1. We are recommending that the state utilize the data available from the Social Security Administration (SSA) to identify incarcerated recipients to ensure that unallowable payments for services provided to inmates are not made in the future.

**Response:** The Division of Family Services (DFS), which determines Medicaid eligibility for Missouri, currently uses the SSA data to match with the Food Stamp claimants to identify incarcerated recipients. When a match occurs, appropriate action is taken to stop benefits, including Medicaid coverage. In addition, DFS uses data from the Missouri Department of Corrections to match with Medicaid enrollees to identify incarcerated recipients. When a match occurs, appropriate action is taken to stop Medicaid coverage.

Please feel free to contact Gregory A. Vadner, Director, Division of Medical Services at 573-751-6922 if you have additional questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Dana Katherine Martin".

Dana Katherine Martin  
Director

DKM/rjs

cc: Denise Cross, Director  
Division of Family Services