



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

**JAN 20 2006**

Report Number: A-07-05-03065

Ms. Maggie Anderson, Director, Medical Services  
North Dakota Department of Human Services  
600 E. Boulevard Avenue  
Bismarck, North Dakota 58505-0250

Dear Ms. Anderson:

Enclosed are two copies of the U.S. Department of Health and Human Services (HHS), Office of Inspector General (OIG) final report entitled "Review of North Dakota's Accounts Receivable System for Medicaid Provider Overpayments" for the period October 1, 2002, through March 31, 2005. A copy of this report will be forwarded to the HHS action official noted on the following page for his review and any action deemed necessary.

The HHS action official will make the final determination as to actions taken on all matters reported. 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 reports issued to the Department's grantees and contractors are made available to the public to the extent the information is not subject to exemptions in the Act that the Department chooses to exercise (see 45 CFR part 5).

If you have any questions or comments about this report, please do not hesitate to call me at (816) 426-3591, ext. 274 (e-mail [patrick.cogley@oig.hhs.gov](mailto:patrick.cogley@oig.hhs.gov)), or your staff may contact Greg Tambke, Audit Manager, at (573) 893-8338, ext. 30 (e-mail [greg.tambke@oig.hhs.gov](mailto:greg.tambke@oig.hhs.gov)). Please refer to report number A-07-05-03065 in all correspondence.

Sincerely yours,

Patrick J. Cogley  
Regional Inspector General  
for Audit Services

Enclosures

**Direct Reply to HHS Action Official**

Mr. Alex Trujillo  
Regional Administrator, Region VIII  
Centers for Medicare & Medicaid Services  
Colorado State Bank Building  
1600 Broadway, Suite 700  
Denver, Colorado 80202-4967

**Department of Health and Human Services**

**OFFICE OF  
INSPECTOR GENERAL**

**REVIEW OF NORTH DAKOTA'S  
ACCOUNTS RECEIVABLE SYSTEM  
FOR MEDICAID PROVIDER  
OVERPAYMENTS**



**Daniel R. Levinson  
Inspector General**

**JANUARY 2006  
A-07-05-03065**

# ***Office of Inspector General***

<http://oig.hhs.gov>

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## **OAS FINDINGS AND OPINIONS**

The designation of financial or management practices as questionable or a recommendation for the disallowance of costs incurred or claimed as well as other conclusions and recommendations in this report represent the findings and opinions of the HHS/OIG/OAS. Authorized officials of the awarding agency will make final determination on these matters.



## **EXECUTIVE SUMMARY**

### **BACKGROUND**

This report is part of a multistate audit focusing on States' accounts receivable systems for Medicaid provider overpayments that were reportable during the period October 1, 2002, through March 31, 2005. An overpayment is a payment to a provider in excess of the allowable amount.

Provisions of the Social Security Act (Act) provide the Centers for Medicare & Medicaid Services (CMS) with the authority to approve each State's plan for administering the Medicaid program. If the State plan meets specific Federal requirements, CMS matches the State's Medicaid spending through Federal financial participation. The Act provides CMS with the authority to disallow the Federal share for any Medicaid provider overpayments. States are required to return the Federal share of overpayments within 60 days of the date of discovery. States must credit the Federal share of those overpayments on the Quarterly Medicaid Statement of Expenditures for the Medical Assistance Program, Form CMS-64 (CMS-64 report) for the quarter in which the 60-day period ends. Pursuant to Federal regulations, any appeal rights extended to a provider do not extend the date of discovery.

In North Dakota, the Department of Human Services (North Dakota) administers the Medicaid program.

### **OBJECTIVE**

Our objective was to determine whether North Dakota reported Medicaid provider overpayments pursuant to Federal regulations.

### **SUMMARY OF FINDINGS**

North Dakota did not report all Medicaid provider overpayments pursuant to Federal regulations. Specifically, as of March 31, 2005, it had not reported 132 Medicaid overpayments. The Federal share of the 132 unreported overpayments totaled \$684,025.

North Dakota did not report overpayments on time because its policies and procedures were insufficient to ensure timely reporting of all overpayments. Specifically, it waited to report provider overpayments until it had (1) collected them from the provider or (2) finalized the cost report settlement.

### **RECOMMENDATIONS**

North Dakota should return the Federal share of identified Medicaid overpayments totaling \$684,025 to the Federal Government and improve its policies and procedures to ensure all overpayments are reported pursuant to Federal requirements.

## **AUDITEE’S COMMENTS**

The State agency concurred with our findings and recommendations. It stated that it finalized a cost settlement report subsequent to our fieldwork and reported \$39,316 of overpayments on the June 2005 CMS-64 report. The State agency indicated that it would:

- return the remaining \$644,709 in overpayments to the Federal Government and
- change “its internal practices and procedures to ensure federal re-payments will be made with the timeframe required by federal rule.”

## **OFFICE OF INSEPECTOR GENERAL’S RESPONSE**

We commend North Dakota for its efforts to address the findings and recommendations.

## **OTHER MATTER**

By not reporting overpayments in a timely manner, North Dakota effectively denied CMS the use of funds that would have otherwise been available for the Medicaid program. The Cash Management Improvement Act of 1990 (CMIA) provides a means to calculate the value of opportunity costs such as this. Applying the CMIA methodology, CMS could have realized potential interest income totaling \$81,411.

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## **INTRODUCTION**

### **BACKGROUND**

#### **State Responsibility for Medicaid Provider Overpayments**

The Medicaid program, established by Title XIX of the Social Security Act (Act), provides grants to States for medical and health-related services to eligible low-income persons. The program is a jointly funded cooperative venture between the Federal and State Governments.

The Centers for Medicare & Medicaid Services (CMS) administers the Medicaid program at the Federal level and is responsible for ensuring that State Medicaid programs meet all Federal requirements. States are required to submit to CMS a comprehensive State plan that describes the nature and scope of its program. If the State plan meets specific Federal requirements, CMS matches the State's Medicaid spending through Federal financial participation. The Federal share is determined by a formula based on the State's per capita income.

In North Dakota, the Department of Human Services (North Dakota) administers the Medicaid program.

#### **Criteria for Medicaid Provider Overpayments**

CMS cites section 1903(d)(2) of the Act as the principal authority in disallowing the Federal share for provider overpayments. The Consolidated Omnibus Budget Reconciliation Act of 1985 amended this section and states that CMS will adjust reimbursement to a State for any overpayment. An overpayment is a payment to a provider in excess of the allowable amount.

States are required to return the Federal share of overpayments within 60 days of the date of discovery, whether or not the recovery was made. This legislation is codified in 42 CFR § 433, subpart F, "Refunding of Federal Share of Medicaid Overpayments to Providers," which requires States to credit the Federal share of overpayments on the Quarterly Medicaid Statement of Expenditures for the Medical Assistance Program, Form CMS-64 (CMS-64 report) for the quarter in which the 60-day period following discovery ends.

Pursuant to 42 CFR § 433.316, an overpayment resulting from a situation other than fraud or abuse is discovered on the earliest date that:

1. any Medicaid agency official or other State official first notifies a provider in writing of an overpayment and specifies a dollar amount that is subject to recovery,
2. a provider initially acknowledges a specific overpaid amount in writing to the Medicaid agency, or
3. any State official or fiscal agent of the State initiates a formal action to recoup a specific overpaid amount from a provider without having first notified the provider in writing.

Overpayments resulting from fraud or abuse are discovered on the date of the final written notice of the State's overpayment determination that a Medicaid agency official or other State official sends to the provider.

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

### **Objective**

Our objective was to determine whether North Dakota reported Medicaid provider overpayments pursuant to Federal regulations.

### **Scope**

We examined Medicaid provider overpayments subject to the requirements of 42 CFR § 433, subpart F, for the period October 1, 2002, through March 31, 2005. As part of our efforts to assess overpayments during our review period, we reviewed overpayments that should have been reported prior to our review period but were still outstanding as of March 31, 2005. In total, we reviewed 542 provider overpayments totaling \$11,482,606.

We did not review the overall internal control structure of North Dakota's operations or financial management. However, we gained an understanding of North Dakota's controls with respect to provider overpayments.

We performed fieldwork at the Department of Human Services's offices in Bismarck, ND, during May and June 2005.

### **Methodology**

To accomplish our objective, we reviewed applicable Federal criteria, including section 1903 of the Act and 42 CFR § 433, as well as applicable sections of the State Medicaid manual.

In addition, we:

- interviewed North Dakota officials responsible for identifying and monitoring collections of overpayments, as well as staff responsible for reporting the Federal share of overpayments;
- reviewed overpayment case files to determine the date of discovery, status of the overpayment, and if any adjustments or write-offs occurred during the audit period;
- analyzed overpayments to determine if North Dakota reported them accurately and pursuant to Federal regulations; and
- compared the CMS-64 reports North Dakota submitted to CMS to supporting documentation.

Finally, we calculated potential lost interest using the Cash Management Improvement Act (CMIA) rate<sup>1</sup> applied to the Federal share of outstanding overpayments.

We performed the audit in accordance with generally accepted government auditing standards.

## **FINDINGS AND RECOMMENDATIONS**

North Dakota did not report all Medicaid provider overpayments pursuant to Federal regulations. Specifically, as of March 31, 2005, it had not reported 132 Medicaid overpayments. The Federal share of the 132 unreported overpayments totaled \$684,025.

North Dakota did not report overpayments on time because its policies and procedures were insufficient to ensure timely reporting of all overpayments. Specifically, North Dakota waited to report provider overpayments until it had (1) collected them from the provider or (2) finalized the cost report settlement.

### **OVERPAYMENTS NOT REPORTED IN A TIMELY MANNER**

#### **North Dakota Must Return the Federal Share Within 60 Days of Discovery**

Pursuant to 42 CFR § 433, subpart F, the State agency has 60 days, from the date of discovery, to recover a provider overpayment. It must refund the Federal share of overpayments at the end of the 60-day period, whether or not it has recovered the overpayment from the provider. The State agency must credit the Federal share on the CMS-64 report for the quarter in which the 60-day period following discovery ends.

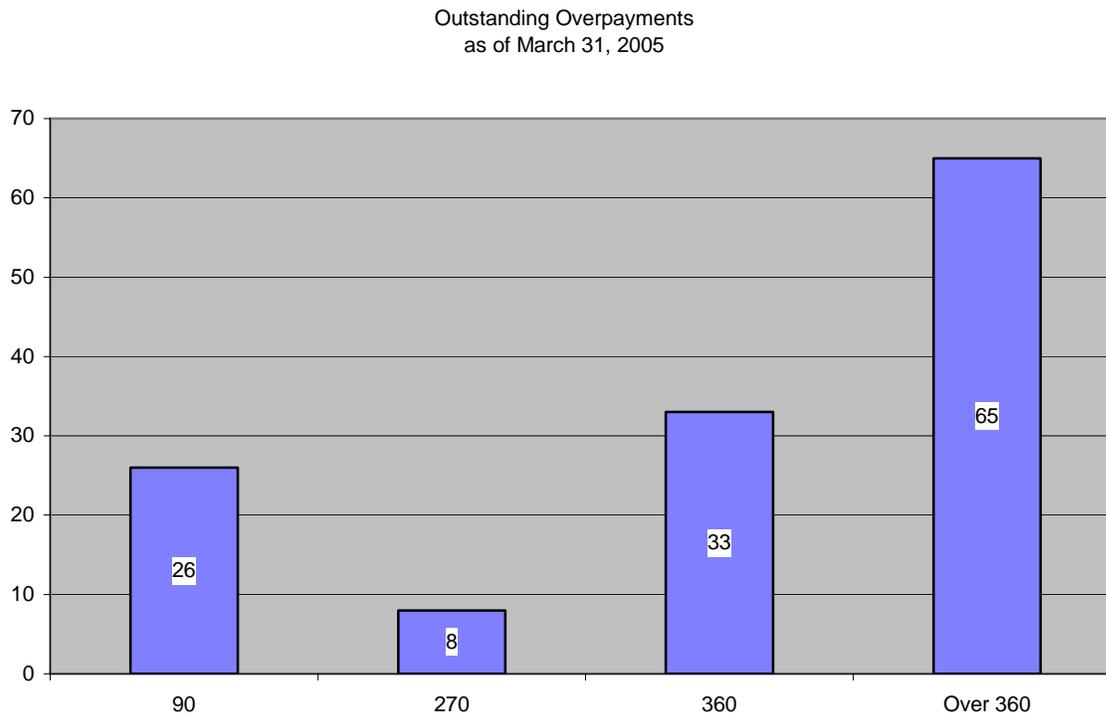
#### **North Dakota Reported Overpayments Late**

As of March 31, 2005, North Dakota had not reported all or part of 132 overpayments on the proper quarterly CMS-64 report as required.

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<sup>1</sup>We used the interest rate per the CMIA, which varied by the State's fiscal year from 0.98 percent to 5.42 percent. Congress passed the CMIA to improve the transfer of Federal funds between the Federal Government and the States, Territories, and the District of Columbia and to provide a means for assessing an interest liability to the Federal Government and/or the States to compensate for the lost value of funds.

The following chart illustrates the number of days late each of the outstanding overpayments were as of March 31, 2005:



### **North Dakota's Policies and Procedures Were Insufficient**

North Dakota did not report overpayments on time because its policies and procedures were insufficient to ensure timely reporting of all overpayments. Specifically, it waited to report provider overpayments until it had (1) collected them from the provider or (2) finalized the cost report settlement. The collection of overpayments and finalization of the cost report settlement often occurred after the 60-day discovery period had ended.

North Dakota did not report (1) overpayments for account receivable balances identified in the Medicaid Management Information System (MMIS) or (2) overpayments identified through the Medical Services Division<sup>2</sup> until it had collected the overpayments from providers.

In addition, North Dakota waited to report overpayments until it finalized the cost report settlement with providers. Although North Dakota sent the providers the amount of overpayments owed with the initial cost report settlement, it waited until the cost reports were finalized before it reported the overpayments to CMS. The collection of overpayments and finalization of the cost report settlement often occurred after the 60-day discovery period had

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<sup>2</sup>The Medical Services Division contains the Medicaid Fraud Control Unit (MFCU) and the Surveillance & Utilization Review Unit. North Dakota has a waiver from CMS's requirement to have a separate MFCU unit because of the small size of the State's Medicaid population. As a result, North Dakota combines these two units under the Medical Services Division.

ended. Therefore, North Dakota's policies and procedures were insufficient to ensure timely reporting of all overpayments.

### **North Dakota Did Not Return the Federal Share When Due**

As of March 31, 2005, North Dakota had not returned the \$684,025 Federal share of Medicaid provider overpayments.

### **RECOMMENDATIONS**

North Dakota should return the Federal share of identified Medicaid overpayments totaling \$684,025 to the Federal Government and improve its policies and procedures to ensure all overpayments are reported pursuant to Federal requirements.

### **AUDITEE'S COMMENTS**

The State agency concurred with our findings and recommendations. It stated that it finalized a cost settlement report subsequent to our fieldwork and reported \$39,316 of overpayments on the June 2005 CMS-64 report. The State agency indicated that it would:

- return the remaining \$644,709 in overpayments to the Federal Government and
- change "its internal practices and procedures to ensure federal re-payments will be made with the timeframe required by federal rule."

### **OFFICE OF INSEPECTOR GENERAL'S RESPONSE**

We commend North Dakota for its efforts to address the findings and recommendations. While we are pleased that North Dakota has returned \$39,316, we did not change our recommendations since this action was taken subsequent to our audit.

### **OTHER MATTER**

#### **Opportunity Cost**

By not reporting overpayments in a timely manner, North Dakota effectively denied CMS the use of funds that would have otherwise been available for the Medicaid program. The CMIA provides a means to calculate the value of opportunity costs such as this. Applying the CMIA methodology, CMS could have realized potential interest income totaling \$81,411.

# **APPENDIX**



**Medical Services**  
(701) 328-2321  
Toll Free 1-800-755-2604  
Fax (701) 328-1544  
TTY (701) 328-3480  
Provider Relations (701) 328-4030

John Hoeven, Governor  
Carol K. Olson, Executive Director

January 13, 2006

Patrick J. Cogley  
Regional Inspector General for Audit Services  
Department of Health and Human Services  
Office of Inspector General, Region VII  
601 East 12<sup>th</sup> Street, Room 284 A  
Kansas City, MO 64106

RE: Review of North Dakota's Accounts Receivable System for Medicaid  
Provider Overpayments

Dear Mr. Cogley:

We are providing the following as a response to your report on the review of  
North Dakota's Accounts Receivable System for Medicaid Provider  
Overpayments.

#### Findings

North Dakota did not report overpayments on time because its policies and  
procedures were insufficient to ensure timely reporting of all overpayments.  
Specifically, it waited to report provider overpayments until it had (1) collected  
them from the provider or (2) finalized the cost report settlement.

#### North Dakota Response

##### Developmental Disabilities Findings:

Referring to page four of the 8/29/05 fax from Joseph Mickey, Office of  
Inspector General, seven DD audits are listed under "overpayments after  
FFY 2003 that have not been reported". One of these seven DD audits  
was finalized subsequent to the auditors' visit: Friendship fiscal year  
ended 6/30/2003 was finalized June 2005. The Friendship audit

settlement was reported on the June 2005 CMS 64 report and the federal government has recouped their share of that DD audit settlement.

The remaining six DD audits listed on page four of the federal auditor's report have not been finalized: (i.e., Alpha-Opp, 6/30/2003; Anne Carlsen, 12/31/2003; Development Homes Inc., 12/31/2002; Fraser, Ltd., 6/30/2003; Red River Human Services, 6/30/2003; and REM-North Dakota, Inc, 12/31/2002.) The amounts listed in the "amount of overpayment not reported" column for each of these six DD audits agrees to the respective preliminary audit computation of settlement.

#### Third Party Liability and SURS Findings:

Ray Feist, TPL/SURS Administrator, will be giving Fiscal Administration access to the program listing TPL recoveries. Any other overpayments not on the TPL list are to be treated as related to this audit and the federal funds reimbursed within the 60 days even if there is a monthly payment plan. The total Federal portion will be paid within the 60-day time frame.

Mr. Feist, will also be looking at settling the entire claim as quickly as possible from the date of discovery. We will only compromise the state's share for payments if necessary to settle the claim. No partial payments will be authorized without the consent of the Office of Inspector General.

The administrator of the S/UR program will be responsible to identify the applicable cases and notify finance for proper repayment of the federal portion.

We will continue to log each case to determine the discovery date and the Federal repayment date.

#### Recommendation

North Dakota should return the Federal share of identified Medicaid overpayments totaling \$684,025 to the Federal Government and improve its policies and procedures to ensure all overpayments are reported pursuant to Federal requirements.

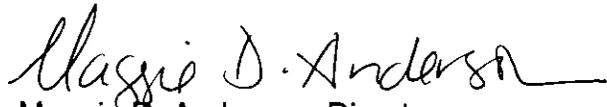
#### North Dakota Response

With the exception of the DD audit (Friendship, Inc) mentioned above in the amount of \$39,316.48, the Department concurs with the other overpayments. The CMS 64 reports will be adjusted accordingly.

North Dakota has changed its internal practices and procedures to ensure federal re-payments will be made with the timeframe required by federal rule.

Please contact our office if you have additional questions or advise if additional action is required.

Sincerely,

A handwritten signature in black ink that reads "Maggie D. Anderson". The signature is fluid and cursive, with a long horizontal line extending from the end of the name.

Maggie D. Anderson, Director  
Divisions of Medical Services

Cc: Yvonne Smith, Director, Division of Developmental Disabilities  
Marie Ystaas, Fiscal Administration