



Memorandum

MAR 22 2002  
Date *Thomas D. Roslewicz*  
From **Thomas D. Roslewicz**  
Deputy Inspector General  
for Audit Services  
Subject

To Review of California Medicaid Claims for State Hospital Mental Health Patients Aged 22 Through 64 Temporarily Released to Acute Care Hospitals During the Period July 1, 1997 Through February 28,2001 (A-09-01-00055)

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

As part of self-initiated audits by the Office of Inspector General (OIG), we are alerting you to the issuance of the subject audit report within 5 business days from the date of this memorandum. A copy of the report is attached. 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. This report is one of a series of reports in our multi-State initiative focusing on Federal reimbursement for medical care provided to residents of institutions for mental diseases (IMD).

The objective of our review was to determine if controls were in place to preclude the State of California from claiming Federal financial participation (FFP) under the Medicaid program for residents of IMDs aged 22 through 64 who were temporarily released to acute care hospitals for medical treatment.

Our review found that adequate controls were not in place to preclude the State from inappropriately claiming FFP under the Medicaid program. As a result, during the period July 1, 1997 through February 28,2001, the State claimed \$551,394 in unallowable FFP for Medicaid claims from acute care hospitals. We recommended that the State (1) refund \$551,394 to the Federal Government, representing the unallowable FFP claimed, and (2) establish controls to prevent FFP from being claimed under the Medicaid program for IMD residents aged 22 through 64 who are temporarily released to general acute care hospitals to receive medical treatment.

State officials disagreed with our finding and recommendations. They said that (i) our interpretation of the Medicaid regulations made an inappropriate and unnecessary distinction between the administrative mechanism used when a State hospital patient is temporarily released to a local acute care hospital and when a patient is actually discharged from a State hospital and admitted to a general acute care hospital, and (ii) the FFP exclusion does not apply during the part of the month in which the individual is not a patient in an IMD (42 CFR 435.1008(b)) and that an individual on conditional release or convalescent leave

from an IMD is not considered to be a patient in that institution (42 CFR 435.1008(c) and 436.1004(c)).

Medicaid law and regulations prohibit States from claiming FFP under the Medicaid program for IMD residents aged 22 through 64. Consistent with Medicaid law and regulations, CMS issued guidelines excluding FFP for all services provided to IMD residents in this age group. The CMS guidelines clearly state that an individual temporarily transferred from an IMD for the purpose of obtaining medical treatment is still considered to be an IMD patient and FFP is not allowed for the treatment provided. Departmental Appeals Board and Federal Court rulings have upheld OIG disallowances in other States based on the above criteria.

Any questions or comments on any aspect of this memorandum are welcome. Please address them to George M. Reeb, Assistant Inspector General for Health Care Financing Audits, at (410) 786-7104 or Lori Ahlstrand, Regional Inspector General for Audit Services, Region IX, (415) 437-8360.

Attachment

**Department of Health and Human Services**

**OFFICE OF  
INSPECTOR GENERAL**

**REVIEW OF CALIFORNIA MEDICAID  
CLAIMS FOR STATE HOSPITAL  
MENTAL HEALTH PATIENTS AGED  
22 THROUGH 64 TEMPORARILY  
RELEASED TO ACUTE CARE  
HOSPITALS DURING THE PERIOD  
JULY 1, 1997 THROUGH  
FEBRUARY 28, 2001**



**JANET REHNQUIST  
Inspector General**

**MARCH 2002  
A-09-01-0055**



Office of Audit Services  
Region IX  
50 United Nations Plaza, Room 171  
San Francisco, CA 94102  
(415) 437-8360

MAR 27 2002

CIN: A-09-01-00055

Mr. Stan Rosenstein  
Assistant Deputy Director of  
Medical Care Services  
Department of Health Services  
714 P Street, Room 1253  
Sacramento, California 95814

Dear Mr. Rosenstein:

Enclosed are two copies of the Department of Health and Human Services (HHS), Office of Inspector General (OIG), Office of Audit Services' (OAS) report entitled, "Review of California Medicaid Claims for State Hospital Mental Health Patients Aged 22 Through 64 Temporarily Released to Acute Care Hospitals During the Period July 1, 1997 Through February 28, 2001." Your attention is invited to the audit findings and recommendations contained in the report.

Final determination as to actions taken on all matters reported will be made by the HHS action official named below. 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. Should you have any questions, please direct them to the HHS action official.

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 are made available to members of the public to the extent information contained therein is not subject to exemptions in the Act (see 45 CFR part 5). As such, within 10 business days after the final report is issued, it will be posted on the world wide web at <http://oia.hhs.gov>.

To facilitate identification, please refer to Common Identification Number A-09-01-00055 in all correspondence relating to this report.

Sincerely,

Lori A. Ahlstrand  
Regional Inspector General  
for Audit Services

Enclosures

Page 2 – Mr. Stan Rosenstein

**Direct Reply to HHS Action Official:**

Regional Administrator  
Centers for Medicare & Medicaid Services, Region IX  
Department of Health and Human Services  
75 Hawthorne Street, 4<sup>th</sup> Floor  
San Francisco, California 94105-3901

## **EXECUTIVE SUMMARY**

### **BACKGROUND**

Federal Medicaid<sup>1</sup> law and regulations prohibit Federal financial participation (FFP) for medical services, including inpatient hospital care, provided to residents of institutions for mental diseases (IMD) aged 22 through 64. Individuals residing in IMDs retain their IMD status when they are temporarily released to acute care hospitals for medical treatment.

Our review was limited to the residents released from two State-operated psychiatric hospitals in California - Napa State Hospital and Metropolitan State Hospital. Both of these psychiatric hospitals are IMDs.

### **OBJECTIVE**

The objective of our review was to determine if controls were in place to preclude the State of California from claiming FFP under the Medicaid program for IMD residents aged 22 through 64 who were temporarily released to acute care hospitals for medical treatment.

### **SUMMARY**

The State did not establish controls to prevent FFP from being claimed under the Medicaid program for inpatient hospital care provided to IMD residents aged 22 through 64. Our review disclosed that the State claimed \$551,394 in unallowable FFP for Medicaid claims from acute care hospitals during our audit period July 1, 1997 through February 28, 2001. The State paid for the inpatient care provided to 74 IMD residents, during 158 temporary release incidents.

The 74 IMD residents were temporarily transferred from the State-operated psychiatric hospitals to acute care hospitals for inpatient treatment of their physical ailments. However, the residents were not discharged from the State hospitals during the temporary absences. Basically, the State hospitals maintained their responsibility for the residents. Once the medical care was completed, the residents were returned to the State hospitals for the continued treatment of their mental diseases. The temporary transfers did not affect the individuals' IMD status and, therefore, they remained ineligible for FFP under the Medicaid program.

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<sup>1</sup>In the State of California, Medicaid is referred to as the Medi-Cal program. In this report, we used the term "Medicaid" to refer to the Medi-Cal program.

## RECOMMENDATIONS

We recommended that the State of California:

1. Refund \$551,394 to the Federal Government, representing the unallowable FFP claimed under the Medicaid program for inpatient hospital care provided to IMD residents aged 22 through 64.
2. Establish controls to prevent FFP from being claimed under the Medicaid program for IMD residents aged 22 through 64 who are temporarily released to general acute care hospitals to receive medical treatment.

In a written response to our draft report, State officials disagreed with our finding and recommendations. A summary of State officials' comments and the Office of Inspector General's response is included at the end of the report. The State officials' comments are included in their entirety as an APPENDIX to this report.

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# INTRODUCTION

## BACKGROUND

### *Federal Law and Regulations*

The Medicaid<sup>1</sup> program authorized by title XIX of the Social Security Act (Act), as amended, provides grants to States for furnishing medical assistance to eligible low-income persons. The States arrange with medical service providers such as physicians, pharmacies, hospitals, nursing homes, and other organizations to provide the needed medical assistance. In order to be eligible for Federal financial participation (FFP), each State must submit an acceptable plan to the Centers for Medicare & Medicaid Services (CMS). The CMS is responsible for monitoring the activities of the State agency in implementing the Medicaid program under the State plan.

Prior to the enactment of Medicaid in 1965, FFP was not available for payments made on behalf of individuals who were receiving care in institutions for mental diseases (IMD). Until that time, such care was the sole responsibility of the States. When Medicaid was enacted, FFP was made available for the care of institutionalized mental patients who were 65 years and older. The Social Security Amendments of 1972 extended FFP for inpatient psychiatric care to individuals under the age of 21 and, in certain instances, under the age of 22.

Consistent with the Act, Federal regulations [42 CFR 435.1008 and 42 CFR 441.13] prohibit FFP for services to IMD residents under the age of 65, except for inpatient psychiatric services provided to individuals under the age of 21 and, in some cases, for individuals under the age of 22.

### *CMS Guidance*

The CMS has consistently provided guidance to States that FFP is not permitted for IMD residents aged 22 through 64. In November 1990, CMS issued guidance to the States regarding the temporary release of an IMD resident to receive medical treatment:

“If a patient is temporarily transferred from an IMD for the purpose of obtaining medical treatment, however, this is not considered a conditional release, and the patient is still considered an IMD patient....” [HCFA Publication 45-4, sec. 4390]

The CMS Transmittal Numbers 65 and 69, dated March 1994 and June 1996, contained the same guidance.

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<sup>1</sup>In the State of California, Medicaid is referred to as the Medi-Cal program. In this report, we used the term “Medicaid” to refer to the Medi-Cal program.

### ***Departmental Appeals Board Decisions***

Departmental Appeals Board (DAB) decisions in the States of New Jersey and New York (DAB Decision Nos. 1549 and 1577) upheld the disallowances of FFP claimed by the States for the inpatient care provided to IMD patients aged 22 through 64 who were temporarily transferred to acute care facilities to receive medical services. The DAB held that the general IMD exclusion applied because the status of the individuals as patients in an IMD never changed since the patients were only temporarily transferred to receive medical services.

### ***U.S. District Court Decision***

On February 4, 1997, the U.S. District Court for the District of New Jersey upheld DAB Decision No. 1549. The Court found that the patients in question remained IMD patients during the course of their medical treatment at the acute care facilities because they were temporarily released and were never formally discharged from the IMDs.

### ***California Medicaid Program***

The State designated the Department of Health Services (DHS) as the agency responsible for the administration of the Medicaid program in California. The DHS submitted claims for FFP to CMS.

The California Department of Developmental Services (DDS) was responsible for collecting payments from the patients and other parties (e.g., insurance companies, Medicare, and Medicaid) for the services provided in all the State-operated psychiatric hospitals. As part of its responsibilities, DDS reported the cost of the care to be claimed under Medicaid to DHS.

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

The objective of our review was to determine if controls were in place to preclude the State from claiming FFP under the Medicaid program for residents of IMDs aged 22 through 64 who were temporarily released to acute care hospitals for medical treatment. The period covered by our review was July 1, 1997 through February 28, 2001. Our review was conducted in accordance with generally accepted government auditing standards.

To accomplish our objective, we:

- Reviewed Medicaid law and regulations, CMS guidelines, DAB decisions, and a U.S. District Court decision related to States claiming FFP under the Medicaid program for IMD residents who were temporarily released to acute care facilities to receive medical care;

- Evaluated the State’s controls that prevent it from claiming unallowable FFP under Medicaid for IMD residents;
- Obtained, reviewed, and evaluated the two State hospitals’ listings of the residents temporarily released to acute care hospitals to receive medical treatment;
- Reviewed the two State hospitals’ medical and financial records for each resident to determine the reason(s) for the release;
- Reviewed acute care hospitals’ medical and financial records to determine what care was provided to the residents and who paid for the care provided; and
- Reviewed paid Medicaid claims data from the State’s fiscal intermediary, Electronic Data Systems, to confirm that Medicaid paid for the services provided by the acute care hospitals and that FFP was claimed.

The Office of Inspector General (OIG) conducted the review during the period January 2001 through July 2001 at the Napa State Hospital located in Napa, California and the Metropolitan State Hospital located in Norwalk, California. We visited the general acute care hospitals that treated the State hospital residents on temporary release. We also visited CMS Region IX offices in San Francisco, California and DHS and DDS offices in Sacramento, California.

## **FINDING AND RECOMMENDATIONS**

### **STATE CLAIMED UNALLOWABLE FFP**

Our review showed that the 2 State-operated psychiatric hospitals temporarily transferred 416 IMD residents, aged 22 through 64, to general acute care hospitals to receive medical treatment during our audit period July 1, 1997 through February 28, 2001. The transfers did not affect the individuals’ IMD status and, therefore, the residents were not eligible for FFP under the Medicaid program.

The State, however, did not establish controls to prevent it from claiming FFP under the Medicaid program for the medical treatment provided to IMD residents aged 22 through 64. As a result, the State claimed \$551,394 in unallowable FFP for 74 of the 416 residents representing 158 temporary release incidents. Medicaid did not pay for the care for the remaining 342 residents.

#### ***Temporarily Released for Medical Reasons***

According to officials at both the Napa State Hospital and the Metropolitan State Hospital, the 74 residents were temporarily released to acute care hospitals to receive medical services that could not be provided at the State-operated hospitals. We reviewed the State hospitals’ medical records and confirmed that the individuals were on temporary release for medical conditions.

### ***Residents' IMD Status Did Not Change***

Officials from both the Napa State Hospital and the Metropolitan State Hospital told us that the individuals' status, as State hospital patients, did not change. For each temporary release, the State hospitals maintained the individuals' bed spaces, expecting their eventual return. None of the 74 individuals were discharged from the State hospitals.

Further, the State hospitals maintained control over the transferred individuals. The Napa State Hospital required that its employees accompany the transferred individuals to the acute care hospitals and stay with them until they were transported back to the State hospital. The Metropolitan State Hospital required its employees to monitor daily the individuals' care by telephone until they were transported back.

Although the individuals may have been physically transferred to acute care hospitals for medical treatment, they were never discharged from the State hospitals and their status remained as IMD residents. Thus, the residents were not eligible for FFP under the Medicaid program.

### ***Controls Were Not Established***

The State did not establish controls to prevent FFP from being claimed under the Medicaid program for inpatient care provided to IMD residents aged 22 through 64. Claims for these individuals were not eligible for FFP under the Medicaid program when they were admitted to the IMDs. The acute care hospitals submitted claims for payment under the Medicaid program for which the State of California improperly claimed FFP.

## **CONCLUSION**

The State of California claimed unallowable FFP of \$551,394 for IMD residents of State-operated psychiatric hospitals who were temporarily released to general acute care hospitals to receive medical treatment. This occurred because the State did not establish controls to preclude it from claiming FFP under the Medicaid program for IMD residents aged 22 through 64.

## **RECOMMENDATIONS**

We recommended that the State of California:

1. Refund \$551,394 to the Federal Government, representing the unallowable FFP claimed under the Medicaid program for inpatient hospital care provided to IMD residents aged 22 through 64.
2. Establish controls to prevent FFP from being claimed under the Medicaid program for IMD residents aged 22 through 64 who are temporarily released to general acute care hospitals to receive medical treatment.

## STATE OFFICIALS' COMMENTS AND OIG'S RESPONSE

### *State Officials' Comments*

In their response to our draft report, State officials disagreed with our finding and recommendations. They stated that our interpretation of the regulations:

"...makes an inappropriate and unnecessary distinction between the administrative mechanism used when a state hospital patient is moved to a local general acute care hospital and when a patient is actually discharged from the state hospital and admitted to a general acute care hospital. Because the processes associated with an unconditional discharge and a new admission are time consuming and costly, the state hospitals have placed patients on temporary leave status rather than discharging them from the record. However, there is no practical or clinical difference between the two procedures and there should be no difference in Medi-Cal eligibility. When a patient is in a general acute care hospital, he is not included in the in-hospital census of the state hospital; is not billed as a patient of the state hospital; is not receiving clinic care and treatment from the state hospital staff; and, in fact, is served in a level of care that the state hospital is not licensed to provide...."

State officials also said,

"42 CFR 435.1008(b) provides that the FFP exclusion 'does not apply during the part of the month in which the individual is not...a patient in an institution for ...mental disease.' 42 CFR 435.1008(c) and 436.1004(c) also specify that an individual 'on conditional release or convalescent leave from an institution for mental diseases is not considered to be a patient in that institution.' "

Concerning our recommended disallowance, State officials said they are conducting a thorough review of the individual claims that formed the basis of our recommended disallowance, and may disagree with some of the FFP amounts in question.

State officials attached a letter to their response from the American Public Human Services Association, National Association of State Medicaid Directors urging CMS to hold States harmless as it reviewed its policy on temporary releases from public institutions.

The State officials' comments are included in their entirety as an APPENDIX to this report.

### *OIG's Response*

Medicaid law and regulations prohibit States from claiming FFP under the Medicaid program for IMD residents aged 22 through 64. Consistent with Medicaid law and regulations, CMS issued guidelines under its State Medicaid Manual excluding FFP for

all services provided to IMD residents in this age group. The CMS guidelines clearly state that a patient temporarily transferred from an IMD for the purpose of obtaining medical treatment is still considered an IMD patient.

The DAB upheld the OIG's disallowances of FFP claimed under the Medicaid program by the States of New Jersey and New York for services provided to IMD residents aged 22 through 64 who were temporarily transferred to acute care facilities to receive medical services. The U.S. District Court upheld the DAB's decision in New Jersey.

Any future disagreement with our recommended disallowance should be discussed with the HHS action official identified (Regional Administrator for CMS).

Finally, we contacted CMS officials regarding the State Medicaid Directors request to hold States harmless as it reviewed Medicaid policy on temporary releases from public institutions. The CMS officials told us that they were in the process of reviewing Medicaid policy for the inmate population only. However, inmates of public institutions and residents of IMDs are two separate and distinct populations. According to CMS officials, Medicaid law and regulations clearly exclude FFP for services provided to IMD residents aged 22 through 64.

# APPENDIX

**DEPARTMENT OF HEALTH SERVICES****714/744 P STREET****P.O. BOX 942732****SACRAMENTO, CA 94234-7320****(916) 654-0391**

APPENDIX

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December 3, 2001

Ms. Lori A. Ahlstrand  
Regional Inspector General  
for Audit Services  
Office of Inspector General  
Office of Audit Services  
Region IX  
50 United Nations Plaza, Room 171  
San Francisco, CA 94102

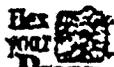
Dear Ms. Ahlstrand:

**RESPONSE TO DRAFT REPORT ON OFFICE OF INSPECTOR GENERAL AUDIT OF  
MEDICAID CLAIMS FOR STATE HOSPITAL MENTAL HEALTH PATIENTS AGED 22  
THROUGH 64 TEMPORARILY RELEASED TO ACUTE CARE HOSPITALS  
CIN A-09-01-00055**

This is in response to your letter dated October 22, 2001, transmitting the subject report. The Department of Health Services disagrees with the findings reflected in the draft report.

Since receiving your letter, the Department has received information that may impact upon the subject audit findings. According to a letter dated November 1, 2001, from the American Public Human Services Association, the National Association of State Medicaid Directors has urged the Centers for Medicare and Medicaid Services (CMS) to hold states harmless as it reviews its policy on temporary release from public institutions. This letter specifically addresses coverage for patients in Institutions for Mental Disease (IMD). A copy of this letter is enclosed for your review. We expect this policy review to take place and anticipate it will cover the important policy issues raised by the findings of this audit.

In our staff's discussions with the Supervising Auditor, the auditor indicated that the claims reviewed were not disallowed because of any lack of medical necessity, nor were they disallowed because the provider's facilities/programs were not certified. They were all disallowed because the beneficiary was considered to be a resident of an IMD at the time the services were provided. For the reasons listed below we disagree with this conclusion.



Ms. Lori A. Ahlstrand  
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In California the counties are responsible for directly providing or arranging for public mental health care. In the discharge of this responsibility, counties may contract with a number of both inpatient and outpatient providers. Among the inpatient providers with whom the counties contract are acute psychiatric units within general acute care hospitals (public and private), state hospitals, and skilled nursing facilities that in California are primarily privately owned. The counties' contracts with the State Department of Mental Health for state hospital care specify that patients are admitted for psychiatric care and treatment only. County referred patients are screened prior to admission for co-occurring medical conditions. Depending on the nature and urgency of the medical care needed, a patient's admission may be denied or delayed until the medical condition is resolved. Typically this medical care is provided in an acute general hospital and if the patient is eligible for Medi-Cal benefits, a claim is made for Medi-Cal reimbursement.

Similarly when a county patient in a state hospital develops a medical condition and the need for treatment of that condition takes precedence over the patient's psychiatric treatment, the patient will be moved to a general acute care hospital. It is the mechanism of this status change that has created confusion.

If the patient is discharged from the state hospital and admitted to either the acute psychiatric unit of a general acute care hospital or to the medical or surgical services of a general acute care hospital, the patient is Medi-Cal eligible and the provider can be reimbursed for eligible and medically necessary covered services. If the patient is subsequently readmitted to the state hospital, the Medi-Cal eligibility during the acute hospital stay is not affected. When patients are discharged, they are no longer residents of the discharging facilities. There is no statutory requirement that patients establish a new community residence prior to being admitted to a general acute care hospital as a condition of Medi-Cal eligibility.

Metropolitan State Hospital serves more than a dozen counties and Napa State Hospital provides services to about three quarters of the 57 counties in California. Most of the counties served by these two state hospitals are distant (1-7 hours driving time) from the state facilities. In most cases it is neither practical nor clinically indicated to return a patient in need of medical care to his home county. Therefore, when required, these patients are transferred to a local general acute care hospital. When the medical condition for which the patient was admitted to the general acute care hospital is sufficiently resolved, the patient is returned to the state hospital for further psychiatric treatment or for return to the referring county.

The clinical facts and the changes in status (level and type of service) are exactly the same in both the examples described in the above two paragraphs. In the second example, the patients are not discharged from record, but they are not counted as part of the state hospital census during the period when they are inpatients in a local general acute care facility. During the general acute care hospitalization, the treatment

Ms. Lori A. Ahlstrand  
Page 3

of the patient is under the control and direction of the medical staff of the general acute care hospital and not the staff of the IMD.

The Department believes the interpretation of the regulations used in this audit does not reflect current realities. The interpretation makes an inappropriate and unnecessary distinction between the administrative mechanism used when a state hospital patient is moved to a local general acute care hospital and when a patient is actually discharged from the state hospital and admitted to a general acute care hospital. Because the processes associated with an unconditional discharge and a new admission are time consuming and costly, the state hospitals have placed patients on temporary leave status rather than discharging them from the record. However, there is no practical or clinical difference between the two procedures and there should be no difference in Medi-Cal eligibility. When a patient is in a general acute care hospital, he is not included in the in-hospital census of the state hospital; is not billed as a patient of the state hospital; is not receiving clinical care and treatment from the state hospital staff; and, in fact, is served in a level of care that the state hospital is not licensed to provide. 42 CFR 435.1008(b) provides that the FFP exclusion "does not apply during the part of the month in which the individual is not... a patient in an institution for... mental disease." 42 CFR 435.1008(c) and 436.1004(c) also specify that an individual "on conditional release or convalescent leave from an institution for mental diseases is not considered to be a patient in that institution."

In addition to the above, the Department is conducting a thorough review of the individual claims that formed the basis for the finding. Our examination thus far indicates there are some cases where the FFP amounts appear to be incorrect. Pending full review of the auditor's documentation, the Department is unable to verify the amounts the auditors indicate should be refunded to the Federal Government. Our review can be completed by December 31, 2001, at which time the State will be in a position to specifically identify issues regarding individual claims and the amount of FFP, if any, which the auditors assert should not have been claimed.

The Department of Health Services continues to be committed to establishing and maintaining effective controls to prevent FFP from being incorrectly claimed under the Medicaid program. However, for the reasons stated above, it is the Department's position that the residence status and level of care of these patients effectively changed upon their admission to the general acute care hospitals and that the patients were eligible for Medicaid benefits at the time the medical services were provided by the general acute care hospitals.

In closing, we would like to point out that the broader issue of the equity of federal policy toward disallowing FFP for Medicaid eligibles in IMDs cannot and should not be ignored or understated. The Department, together with the Department of Mental Health and other large mental health advocacy associations, supports change toward a

**Ms. Lori A. Ahlstrand**  
**Page 4**

**less discriminatory policy against mental illness. It is time that the policy be re-examined.**

**If you have any questions or need additional information, please contact Ms. Bev Silva, Audit Coordinator, at (916) 657-0513.**

Sincerely,



**Stan Rosenstein**  
**Assistant Deputy Director**  
**Medical Care Services**

Enclosure

cc: John Rodriguez, Deputy Director  
Long Term Care Services  
Department of Mental Health  
1600 9<sup>th</sup> Street, Room 250  
Sacramento, CA 95814

Jerry Stanger, Deputy Director  
Payment Systems Division  
Department of Health Services  
9800 Old Winery Place  
Sacramento, CA 95827-1700

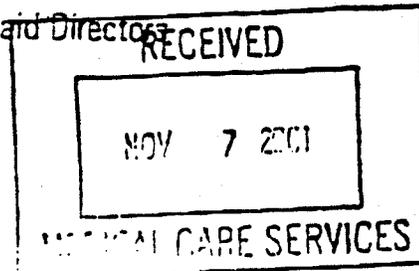
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Sacramento, CA 95814

Barbara Yonemura  
Deputy Director and Chief Counsel  
714 P Street, Room 1216  
Sacramento, CA 95814



American Public Human Services Association

National Association of State Medicaid Directors



November 1, 2001

MEMO

TO: State Medicaid Directors

FROM: Lee Partridge *Lee*

RE: Survey of state reimbursement policy with regard to persons in public Institutions

In December 1997, in order to ensure consistent, uniform application in all regions, CMS sent an internal letter to its regional offices detailing its policy concerning FFP for inmates of a public institution. The regional offices could share the letter with states as they saw fit. Some regions chose to share the letter with states and others did not. In 1998, several states expressed concern that they were unaware that, according to the 12/97 letter, FFP is available for inmates who need to go to a medical facility off prison grounds for a temporary period, so long as that prisoner is otherwise eligible for Medicaid. The NASMD Executive Committee took the issue up in 1999 with the CMSO leadership, who acknowledged that the guidance was vague and gave few details as to what specific circumstances were eligible for FFP. They agreed to review their policy and release a State Medicaid Director letter on the subject. The NASMD Executive Committee raised the issue again with the new Administration in March and they are now moving ahead to comply with our request.

Some of the questions raised by states and by the members of our Eligibility TAG are:

- Are privatized prison facilities considered public institutions?
- Where does IMD policy fits in relation to public institutions?
- What is the state of residence for states that deport prisoners to facilities in other states?
- Who is the household?
- What constitutes a "temporary period?"
- How far back can states claim retroactive FFP if they were unaware of this policy?
- What about secure wards in community hospitals used by the Dept. of Corrections?
- Can you have a medical institution within a detention center?

An affiliate of the American Public Human Services Association, representing public human services since 1930

- Does this policy also apply to FFP for SCHIP?

NASMD also has urged CMS hold states harmless as it reviewed its policy in this area.

In order that they may have a better appreciation of the scope of the diversity that exists. CMSO staff developed the attached short survey. We agreed we would send it to you all and ask you to FAX your response back to us. Heidi Shaner and I will then compile the information and share it with CMS and all of you. This is a very complicated issue. We appreciate any information you can send.

If you have questions, you may contact Heidi directly at [Hshaner@aphsa.org](mailto:Hshaner@aphsa.org).

Please FAX your response to me at (202) 682-3706. Thank you very much.

Attachment