DEPARTMENT OF HEALTH AND HUMAN SERVICES
OFFICE OF AUDIT SERVICES
233 NORTH MICHIGAN AVENUE
CHICAGO, ILLINOIS 60601

REGION V
OFFICE OF
INSPECTOR GENERAL

September 22, 2009

Report Number: A-05-09-00050

Janet Olszewski
Director
Michigan Department of Community Health
Capitol View Building
201 Townsend Street
Lansing, Michigan 48913

Dear Ms. Olszewski:

Enclosed is the U.S. Department of Health and Human Services (HHS), Office of Inspector General (OIG), final report entitled "Family Planning Services Claimed by Michigan During October 1, 2005, Through September 30, 2007." We will forward a copy of this report to the HHS action official noted on the following page for review and any action deemed necessary.

The HHS action official will make final determination as to actions taken on all matters reported. We request that you respond to this 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.

Section 8L of the Inspector General Act, 5 U.S.C. App., requires that OIG post its publicly available reports on the OIG Web site. Accordingly, this report will be posted at http://oig.hhs.gov.

If you have any questions or comments about this report, please do not hesitate to call me, or contact Mike Barton, Audit Manager, at (614) 469-2543 or through email at Mike.Barton@oig.hhs.gov. Please refer to report number A-05-09-00050 in all correspondence.

Sincerely,

Marc Gustafson
Regional Inspector General
for Audit Services

Enclosure

Direct Reply to HHS Action Official:

Jackie Garner
Consortium Administrator
Consortium for Medicaid and Children's Health Operations
Centers for Medicare & Medicaid Services
233 North Michigan Avenue, Suite 600
Chicago, Illinois 60601

Department of Health and Human Services

OFFICE OF INSPECTOR GENERAL

FAMILY PLANNING SERVICES CLAIMED BY MICHIGAN DURING OCTOBER 1, 2005, THROUGH SEPTEMBER 30, 2007

Daniel R. Levinson
Inspector General

September 2009
A-05-09-00050

Office of Inspector General

http://oig.hhs.gov

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OFFICE OF AUDIT SERVICES FINDINGS AND OPINIONS

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

EXECUTIVE SUMMARY

BACKGROUND

Pursuant to Title XIX of the Social Security Act (the Act), the Medicaid program provides medical assistance to low-income individuals and individuals with disabilities. The Federal and State Governments jointly fund and administer the Medicaid program. At the Federal level, the Centers for Medicare & Medicaid Services (CMS) administers the program. Each State administers its Medicaid program in accordance with a CMS-approved State plan. Although the State has considerable flexibility in designing and operating its Medicaid program, it must comply with applicable Federal requirements.

Section 1905(a)(4)(C) of the Act requires States to provide family planning services to Medicaid beneficiaries. Pursuant to section 4270 of the CMS "State Medicaid Manual," family planning services prevent or delay pregnancy or otherwise control family size. For sterilization services, Federal regulations (42 CFR § 441.253) require States to maintain documentation indicating the Medicaid beneficiary (1) was at least 21 years old at the time of the procedure; (2) was not mentally incompetent; and (3) voluntarily gave informed consent at least 30 days, but not more than 180 days, prior to the procedure.

States may claim 90-percent Federal funding for the costs of providing family planning services, including sterilization services and prescription drugs. The Federal share for most other Medicaid services is computed using the Federal medical assistance percentage. In Michigan, this rate is about 56 percent.

In Michigan, the Department of Community Heath (State agency) administers the Medicaid program and is responsible for providing family planning services and reporting expenditures for Federal reimbursement. The State agency claimed $4,236,960 ($3,813,264 Federal share) for 5,044 sterilization services and $5,556,394 ($5,000,755 Federal share) for 155,249 claims for prescription drugs provided to Medicaid beneficiaries during the audit period October 1, 2005, through September 30, 2007.

OBJECTIVE

Our objective was to determine whether the State agency properly claimed Federal reimbursement at the 90-percent rate for family planning services provided during October 1, 2005, through September 30, 2007.

SUMMARY OF FINDINGS

The State agency properly claimed Federal reimbursement for family planning services provided during October 1, 2005, through September 30, 2007. From a random sample of 100 sterilization services provided to Medicaid beneficiaries, the State agency properly claimed Federal reimbursement for sterilization services that were documented as required for 99 services. However, the State agency claimed $840 ($756 Federal share) for sterilization services provided to one beneficiary that did not have the required, signed patient consent form. A

review of all claims for prescription drugs disclosed that the State agency claimed $91 ($82 Federal share) for five prescriptions that were non-family planning drugs. We could not determine why the State agency did not maintain the required sterilization documentation for the one beneficiary and why the five non-family planning drugs were claimed for reimbursement.

RECOMMENDATION

We recommend that the State agency refund $838 to the Federal Government for the unallowable family planning costs claimed from October 1, 2005, through September 30, 2007.

STATE AGENCY COMMENTS

In written comments on our draft report, the State agency said that it concurred with our recommendation and will refund $838 to the Federal Government. The State agency comments are included in their entirety as Appendix B.

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INTRODUCTION

BACKGROUND

Pursuant to Title XIX of the Social Security Act (the Act), the Medicaid program provides medical assistance to low-income individuals and individuals with disabilities. The Federal and State Governments jointly fund and administer the Medicaid program. At the Federal level, the Centers for Medicare & Medicaid Services (CMS) administers the program. Each State administers its Medicaid program in accordance with a CMS-approved State plan. Although the State has considerable flexibility in designing and operating its Medicaid program, it must comply with applicable Federal requirements.

Medicaid Coverage of Family Planning Services

Section 1905(a)(4)(C) of the Act requires States to furnish family planning services and supplies to individuals of childbearing age who are eligible under the State plan and who desire such services and supplies. Section 1902(a)(10)(A) of the Act specifies that family planning services be available to "categorically needy" Medicaid beneficiaries, while section 1902(a)(10)(C) specifies that the services may be rendered to "medically needy" Medicaid beneficiaries at the State's option. Section 1903(a)(5) of the Act and 42 CFR §§ 433.10(c)(1) and 433.15(b)(2) authorize a 90-percent rate for Federal reimbursement for family planning services.

Pursuant to section 4270 of the CMS "State Medicaid Manual," family planning services prevent or delay pregnancy or otherwise control family size. In addition, this section generally permits a 90-percent rate of Federal reimbursement for counseling services and patient education; examination and treatment by medical professionals pursuant to State requirements; laboratory examinations and tests; medically approved methods, procedures, pharmaceutical supplies, and devices to prevent conception; and infertility services, including sterilization reversals. The manual indicates that States are free to determine the specific services and supplies that will be covered as Medicaid family planning services as long as those services are sufficient in amount, duration, and scope to reasonably achieve their purpose. However, only items and procedures clearly furnished or rendered for family planning purposes may be claimed at the 90-percent rate for Federal reimbursement.

Michigan's Medicaid Program

In Michigan, the Department of Community Heath (State agency) administers the Medicaid program and is responsible for providing family planning services and reporting expenditures for Federal reimbursement. The State agency claimed $4,236,960 ($3,813,264 Federal share) for 5,044 sterilization services and $5,556,394 ($5,000,755 Federal share) for 155,249 claims for prescription drugs provided to Medicaid beneficiaries during the audit period October 1, 2005, through September 30, 2007.

OBJECTIVE, SCOPE, AND METHODOLOGY

Objective

Our objective was to determine whether the State agency properly claimed Federal reimbursement at the 90-percent rate for family planning services provided during October 1, 2005, through September 30, 2007.

Scope

We reviewed non-waiver family planning services, including claims for sterilization services and prescription drugs totaling $9,793,354 ($8,814,019 Federal share), that were provided to Medicaid beneficiaries during October 1, 2005, through September 30, 2007. We reviewed a simple random sample of 100 sterilization services totaling $84,000 ($75,600 Federal share) and all 155,249 claims for prescription drugs with payments totaling $5,556,394 ($5,000,755 Federal share). We did not review family planning services claimed under a CMS-approved waiver.[1]

We did not review the overall internal control structure of the State agency's Medicaid program. Instead, we reviewed the State agency's procedures related to the reporting and claiming of expenditures for family planning services. We did not review the medical necessity of the services or whether the services were actually provided.

We performed fieldwork at the State agency in Lansing, Michigan, from August through November 2008.

Methodology

To accomplish our objective, we:

- reviewed Federal and State laws and regulations related to reporting expenditures for family planning services;
- held discussions with State agency officials related to policies, procedures, and guidance for claiming Medicaid reimbursement for family planning services;
- obtained and reviewed sterilization and prescription drug claims data that supported the State agency's non-waiver family planning expenditures reported during October 1, 2005, through September 30, 2007;
- selected a simple random sample of 100 sterilization services provided to Medicaid beneficiaries;

[1]The State agency claimed expenditures for family planning services provided under a CMS-approved waiver that allowed Michigan to provide family planning services to recipients whose family income was at or below 185 percent of the Federal poverty level and not eligible for Medicaid.

- obtained and reviewed documentation related to sterilization services, including patient consent forms; and

- reviewed all prescription drug claims to ensure only allowable drugs were claimed as family planning services.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

FINDINGS AND RECOMMENDATION

The State agency properly claimed Federal reimbursement for family planning services provided during October 1, 2005, through September 30, 2007. From a random sample of 100 sterilization services provided to Medicaid beneficiaries, the State agency properly claimed Federal reimbursement for sterilization services that were documented as required for 99 services. However, the State agency claimed $840 ($756 Federal share) for one sterilization service provided to a beneficiary that did not have the required, signed patient consent form. A review of all claims for prescription drugs disclosed that the State agency claimed $91 ($82 Federal share) for five prescriptions that were non-family planning drugs. We could not determine why the State agency did not maintain the required sterilization documentation for the one beneficiary and why the five non-family planning drugs were claimed for reimbursement.

FEDERAL REQUIREMENTS

Federal regulations (42 CFR § 441.253) require States to maintain documentation indicating that all sterilization patients signed a consent form at least 30 days, but not more than 180 days, prior to the date of sterilization. The form must include signatures of the patient, doctor performing the procedure, and the person securing the consent form.

Section 4270 of the CMS "State Medicaid Manual," generally permits a 90-percent rate of Federal reimbursement for medically approved methods, procedures, pharmaceutical supplies, and devices to prevent conception. Only items and procedures clearly furnished or rendered for family planning purposes may be claimed at the 90-percent rate.

STERILIZATION SERVICES

From a random sample of 100 sterilization services provided during the audit period, the State agency properly claimed Federal reimbursement and maintained required documentation for 99 services. For the remaining one service, the State agency claimed Federal reimbursement totaling $840 ($756 Federal share) but did not maintain the beneficiary's signed consent form. We could not determine why the consent form was not maintained.

PRESCRIPTION DRUGS

A review of all claims for prescription drugs during the audit period identified five prescriptions totaling $91 ($82 Federal share) that were improperly claimed and reported as family planning services. The table below shows the unallowable, non-family planning prescription drugs.

Drug	Drug Purpose	Cost
Levothyroxine tablet	To treat an underactive thyroid	$10
Terconazole cream	To treat yeast infections	21
Lipitor tablet	To treat high cholesterol	5
Zyrtec syrup	To treat inflammation of the nose	50
Cardizem tablet	To treat high blood pressure	5
Total		**$91**

We could not determine why the five non-family planning prescription drugs were claimed for reimbursement.

RECOMMENDATION

We recommend that the State agency refund $838 to the Federal Government for the unallowable family planning costs claimed from October 1, 2005, through September 30, 2007.

STATE AGENCY COMMENTS

In written comments on our draft report, the State agency said that it concurred with our recommendation and will refund $838 to the Federal Government. The State agency comments are included in their entirety as Appendix B.

APPENDIXES

SAMPLE DESIGN AND METHODOLOGY

AUDIT POPULATION

The population consisted of all non-waiver sterilization services provided to Medicaid beneficiaries and claimed for Federal reimbursement by the State of Michigan during the period of October 1, 2005, through September 30, 2007.

SAMPLING FRAME

The sampling frame was a computer file containing 5,044 non-waiver sterilization services provided to Medicaid beneficiaries and claimed for Federal reimbursement by the State of Michigan during October 1, 2005, through September 30, 2007. The total reimbursement for the 5,044 services was $4,236,960 ($3,813,264 Federal share).

SAMPLE UNIT

The sample unit was a sterilization service performed during the audit period.

SAMPLE DESIGN

We used a simple random sample.

SAMPLE SIZE

We selected a sample size of 100 sterilization services.

SOURCE OF THE RANDOM NUMBERS

Random numbers were generated by the OIG/OAS statistical software.

METHOD FOR SELECTING SAMPLE ITEMS

We sequentially numbered the services in our sampling frame and selected the sequential numbers that correlated to the random numbers. We then created a list of 100 sample items.

CHARACTERISTICS TO BE MEASURED

For each sample item, we reviewed State agency documentation to ensure compliance with Federal regulations (42 § CFR 441.253) which required documentation indicating that the beneficiary that received the sterilization service (1) was at least 21 years old at the time of the procedure; (2) was not a mentally incompetent; and (3) voluntarily gave informed consent at least 30 days, but not more than 180 days, prior to the procedure.

STATE OF MICHIGAN
DEPARTMENT OF COMMUNITY HEALTH
LANSING

JENNIFER M. GRANHOLM
GOVERNOR

JANET OLSZEWSKI
DIRECTOR

September 11, 2009

Mr. Marc Gustafson
Regional Inspector General for Audit Services
Department of Health and Human Services
Office of Audit Services
233 North Michigan Avenue
Chicago, Illinois 60601

Re: Report Number (A-05-09-00050)

Dear Mr. Gustafson:

Enclosed is the Michigan Department of Community Health's response to the draft report entitled "Family Planning Services Claimed in Michigan during October 1, 2005, through September 30, 2007."

We appreciate the opportunity to review and comment on the report before it is released. If you have any questions regarding this response, please refer them to Pam Myers at [redacted].

Sincerely,

Janet Olszewski
Director

JO:kk

Enclosure

cc: Kurt Krause
Paul Reinhart
Steve Fitton
Mary Jane Russell
Jackie Prokop
Pam Myers

Office of Inspector General Note—The deleted text has been redacted because it is personally identifiable information.

Family Planning Services Claimed by Michigan
during October 1, 2005 through September 30, 2007
(A-05-09-00050)

Finding

The State agency properly claimed Federal reimbursement for family planning services provided during October 1, 2005 through September 30, 2007. From a random sample of 100 sterilization services provided to Medicaid beneficiaries, the State agency properly claimed federal reimbursement for sterilization services that were documented as required for 99 services. However, the State agency claimed $840 ($756 Federal share) for one sterilization service provided to a beneficiary that did not have the required, signed consent form. A review of all claims for prescription drugs disclosed that the State agency claimed $91 ($82 Federal share) for five prescriptions that were non-family planning drugs. We could not determine why the State agency did not maintain the required sterilization documentation for the one beneficiary and why they five non-family planning drugs were claimed for reimbursement.

Recommendation

We recommend that the State agency refund $838 to the Federal Government for the unallowable family planning costs claimed from October 1, 2005, through September 30, 2007.

DCH Response

The Department concurs with the finding and will refund to the federal government the $ 838 noted in the audit.