Department of Health and Human Services

OFFICE OF INSPECTOR GENERAL

FLORIDA PAID HOSPITALS FOR SOME INPATIENT HOSPITAL SERVICES THAT MEDICARE PAID

Inquiries about this report may be addressed to the Office of Public Affairs at Public.Affairs@oig.hhs.gov.

Lori S. Pilcher
Regional Inspector General

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A-04-12-06158

Office of Inspector General

https://oig.hhs.gov

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EXECUTIVE SUMMARY

Florida Medicaid overpaid hospitals $281,620 for some of the same inpatient hospital services that Medicare had already paid.

WHY WE DID THIS REVIEW

Medicaid provides health coverage to 8.3 million "dually eligible" low-income seniors and people with disabilities, who are enrolled in both Medicaid and Medicare. However, Medicaid is the payer of last resort and should not pay for medical costs when there is another responsible entity (or program), including Medicare. The Office of Inspector General has consistently identified Medicaid overpayment issues. In this audit, we focused on Medicaid overpayments when Medicare and Medicaid both pay for the same services. We are conducting this audit in multiple States.

The objective of our audit was to determine whether the Florida Agency for Health Care Administration (State agency) overpaid Medicaid inpatient claims to hospitals that received Medicare payments for the same services.

BACKGROUND

Federal and State Governments jointly fund the Medicaid program. The Medicaid program is intended to be the payer of last resort; that is, all third party insurance carriers, including Medicare, must meet their legal obligation to pay claims before the Medicaid program pays for the care of an individual on Medicaid (section 1902(a)(25) of the Social Security Act).

Overpayments occur when the State agency inappropriately pays claims that a third party is responsible for paying. In Florida, the State agency administers the Medicaid program.

WHAT WE FOUND

The State agency overpaid some Medicaid inpatient claims from hospitals that had received Medicare payments for the same services. Of the 290 overpayments ($522,344 Federal share) that we reviewed, the hospitals had refunded 143 prior to our audit. However, the hospitals had not refunded the remaining 147. The overpayments were due to the State's lack of system edits to detect erroneous hospital entries in their payment system. As a result, the State agency made Medicaid overpayments to hospitals totaling $281,620 ($186,258 Federal share).

WHAT WE RECOMMEND

We recommend that the State agency:

- recover $281,620 in Medicaid overpayments,
- refund $186,258 to the Federal Government,

- ensure system edits are in place to prevent the overpayments that occurred, and

- strengthen guidance and provider education activities related to inpatient deductible billing.

STATE AGENCY COMMENTS AND OUR RESPONSE

In written comments on our draft report, the State agency concurred with our third and fourth recommendations and described corrective actions that it had taken or planned to take in regard to these recommendations. However, the State agency only partially concurred with our first and second recommendations because it disagreed with the improper payment amount we initially identified in our draft report. The State agency asserted that it had recovered payments for 50 claims; however, we determined that the State agency had recovered payments for only 6 of those claims prior to the start of our audit. Therefore, we revised the overpayment amount to $281,620 and the Federal Share to $186,258.

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INTRODUCTION

WHY WE DID THIS REVIEW

Medicaid provides health coverage to 8.3 million "dually eligible" low-income seniors and people with disabilities, who are enrolled in both Medicaid and Medicare. However, Medicaid is the payer of last resort and should not pay for medical costs when there is another responsible entity (or program), including Medicare. The Office of Inspector General has consistently identified Medicaid overpayment issues. In this audit, we focused on Medicaid overpayments when Medicare and Medicaid both pay for the same services. We are conducting this audit in multiple States.

OBJECTIVE

Our objective was to determine whether the Florida Agency for Health Care Administration (State agency) overpaid Medicaid inpatient claims to hospitals that received Medicare payments for the same services.

BACKGROUND

The Medicaid Program

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.

The amount that the Federal Government reimburses to State Medicaid agencies is commonly known as Federal financial participation, or Federal share. It is a specified percentage of Medicaid expenditures determined by the Federal medical assistance percentage, which varies based on a State's relative per capita income.

Medicaid Payer of Last Resort

The Medicaid program is intended to be the payer of last resort; that is, all third party insurance carriers, including Medicare, must meet their legal obligation to pay claims before the Medicaid program pays for the care of an individual on Medicaid (section 1902(a)(25) of the Social Security Act (the Act)). Overpayments occur when the State agency inappropriately pays claims that a third party is responsible for paying. When both Medicare and Medicaid coverage apply, Medicare is the primary payer.

The State agency must recover Medicaid payments when Medicaid pays for services for an individual who has Medicare as the primary payer. This payment constitutes an overpayment.

Florida Agency for Health Care Administration

In Florida, the State agency administers the Medicaid program. Within the State agency, the Medicaid Third Party Liability (TPL) Unit and the Bureau of Medicaid Program Integrity are jointly responsible for identifying and recovering Medicaid overpayments and duplicate payments through recoupment projects.

The TPL Unit ensures that Medicaid is the payer of last resort by identifying, managing and recovering funds for claims paid by the State agency for which a third party was liable. The TPL Unit monitors the performance of the TPL contractor, which provides the TPL recovery services.

The Bureau of Medicaid Program Integrity audits and investigates providers suspected of overbilling or defrauding Florida's Medicaid program. The Bureau also recovers overpayments, issues administrative sanctions, and refers cases of suspected fraud for criminal investigation.

HOW WE CONDUCTED THIS REVIEW

We reviewed 290 Medicaid overpayments for inpatient services that Medicare also paid, totaling $804,129 ($522,344 Federal share), submitted by 109 hospitals in Florida for the 3-year period from January 1, 2007, through December 31, 2009. Our audit population did not include claims in which Medicaid paid for only the deductible, only the coinsurance, or both, for the inpatient stay.

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 objectives.

Appendix A contains the details of our audit scope and methodology.

FINDINGS

The State agency overpaid some Medicaid inpatient claims from hospitals that had received Medicare payments for the same services. Of the 290 overpayments ($522,344 Federal share) that we reviewed, the hospitals had refunded 143 prior to our audit. However, the hospitals had not refunded the remaining 147. The overpayments occurred because of the State agency's lack of system edits to detect erroneous or incorrect hospital entries in its payment system. The State agency made its payments on the basis of data it received from the hospitals, which was not always accurate. As a result, the State agency made Medicaid overpayments to hospitals totaling $281,620 ($186,258 Federal share).

For details on the Federal and State requirements related to the Medicaid overpayments, see Appendix B.

MEDICAID OVERPAYMENTS NOT RECOVERED

The Act provides that the State should refund the Federal portion of any overpayment (§ 1903(d)(2)(A)). An overpayment is the amount paid by a Medicaid agency to a provider that exceeds the amount that is allowable for services furnished under the State plan (42 CFR § 433.304).

The State agency overpaid some Medicaid inpatient claims from hospitals that had received Medicare payments for the same services. Of the 290 overpayments we reviewed, the hospitals refunded 143 prior to the start of our audit. However, the hospitals had not refunded the remaining 147 Medicaid overpayments totaling $281,620 ($186,258 Federal share). Of the 147 overpayments, the State paid hospitals:

- deductible amounts that should not have been paid for 122 overpayments, totaling $126,009, and

- for inpatient hospital stays that Medicare also paid for 25 overpayments, totaling $155,611.

WHY DID OVERPAYMENTS OCCUR?

The overpayments occurred because the State agency's payment system did not have edits in place to detect erroneous or incorrect hospital entries. Some hospitals erroneously entered the inpatient deductible amount into the State agency's payment system without validating that a Medicare deductible existed. The payment system did not detect or validate the accuracy before payment.

Although the State agency had edits in place that detected some duplicate submissions and verified Medicare coverage, they did not always work properly. For instance, the duplicate edit process sometimes overrode other edit checks that could have prevented an erroneous payment or denied a duplicate payment.

RECOMMENDATIONS

We recommend that the State agency:

- recover $281,620 in Medicaid overpayments,

- refund $186,258 to the Federal Government,

- ensure system edits are in place to prevent the overpayments that occurred, and

- strengthen guidance and provider education activities related to inpatient deductible billing.

STATE AGENCY COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE

In written comments on our draft report, the State agency concurred with our third and fourth recommendations and described corrective actions that it had taken or planned to take in regard to these recommendations. However, the State agency only partially concurred with our first and second recommendations because it disagreed with the improper payment amount we initially identified in our draft report. The State agency asserted that it had recovered payments for 50 claims; however, we determined that the State agency had recovered payments for only 6 of those claims prior to the start of our audit. Therefore, we revised the overpayment amount to $281,620 and the Federal Share to $186,258.

The State agency comments are included in their entirety as Appendix C.

APPENDIX A: AUDIT SCOPE AND METHODOLOGY

SCOPE

Our review covered a population of 290 Medicaid overpayments for inpatient services that Medicare also paid, totaling $804,129 ($522,344 Federal share), submitted by 109 hospitals in Florida for the period from January 1, 2007, through December 31, 2009. Our audit population did not include claims in which Medicaid paid for only the deductible, only the coinsurance, or both, for the inpatient stay.

We did not review the overall internal control structure of the State agency or the Medicaid program. Instead, we limited our internal control review to the objective of our audit.

We conducted fieldwork at the State agency in Tallahassee, Florida, and at various hospitals throughout Florida.

METHODOLOGY

To accomplish our objective, we:

- reviewed applicable Federal and State requirements and the Florida State Medicaid plan,
- discussed the Medicaid overpayment process with State agency officials,
- obtained data for paid Medicaid and Medicare inpatient claims,
- performed a data match of the Medicaid and Medicare inpatient claims for overpayments for the same beneficiary for the same date of service,
- reviewed the matching 290 overpayments that had Medicare and Medicaid inpatient claims for the same beneficiary for the same date of service,
- obtained documentation from providers and the State agency to support repayment of Medicaid payments,
- provided State agency officials with a listing of the overpayments for validation,
- calculated the overpayment amount (Federal share), and
- discussed our results with State agency officials.

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 the evidence obtained provides a reasonable basis for our finding and conclusions based on our audit objectives.

APPENDIX B: FEDERAL AND STATE REQUIREMENTS

FEDERAL REQUIREMENTS

The State or local agency administering a State plan for medical assistance will take all reasonable measures to ascertain the legal liability of third parties to pay for care and services available under the plan. By law, the Medicaid program is intended to be the payer of last resort; that is, all other available third party resources must meet their legal obligation to pay claims before the Medicaid program pays for the care of an individual eligible for Medicaid (section 1902(a)(25) of the Act). This means that all third party insurance carriers, including Medicare, must pay before Medicaid processes the claim.

Federal regulations (42 CFR § 433.304) define an overpayment as "... the amount paid by a Medicaid agency to a provider which is in excess of the amount that is allowable for the services furnished under section 1902 of the Act and which is required to be refunded under section 1903 of the Act." In instances when Medicaid should not have paid because Medicare was the primary payer, the State agency should recover the Medicaid payments, which are considered overpayments.

Federal regulations, 42 CFR § 433.312(a), also require that the State must refund the Federal share of unallowable overpayments made to Medicaid providers.

STATE REQUIREMENTS

Medicaid is the payer of last resort for medical necessary good and services furnished to Medicaid recipients. All other sources of payment for medical care are primary when Medicaid pays for medical assistance. If a third party is discovered or becomes available after Medicaid has provided services, then Medicaid is to be repaid in full and before any other person, program, or entity (Florida Statute 409.910 (1)).

In addition, Florida Statute 409.910 (4) states that after the agency has provided medical assistance under the Medicaid program, it shall seek recovery of reimbursement from third-party benefits to the limit of legal liability and for the full amount of third-party benefits, but not in excess of the amount of medical assistance paid by Medicaid.

The State agency's *Provider General Handbook* requires providers to bill the primary insurer prior to billing Medicaid, if a recipient has other insurance coverage through a third party, such as Medicare. Medicaid is the payer of last resort.

APPENDIX C: STATE AGENCY COMMENTS

RICK SCOTT
GOVERNOR

ELIZABETH DUDEK
SECRETARY

April 1, 2014

Ms. Lori S. Pilcher
Regional Inspector General for Audit Services
Department of Health & Human Services
Office of Inspector General
Office of Audit Services, Region IV
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Atlanta, GA 30303

Dear Ms. Pilcher:

Thank you for your letter of March 4, 2014, requesting us to provide comments on the draft report number A-04-12-06158 entitled *Florida Paid Hospitals for Some Inpatient Hospital Services That Medicare Paid*. In accordance with your request, we have emailed you our response.

If you have any questions regarding our response, please contact Mary Beth Sheffield, Audit Administrator, at 850-412-3978.

Sincerely,

Elizabeth Dudek
Secretary

ED/szg
Enclosure

2727 Mahan Drive • Mail Stop #1
Tallahassee, FL 32308

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Agency for Health Care Administration
Florida Paid Hospitals For Some Inpatient Hospital Services That Medicare Paid
Response to HHS/OIG Draft Report Number A-04-12-06158 dated February 2014

Summary of Findings
The State agency overpaid some Medicaid inpatient claims from hospitals that had received Medicare payments for the same services. Of the 290 overpayments ($522,344 Federal share) that we reviewed, the hospitals had refunded 137 prior to our audit. However, the hospitals had not refunded the remaining 153. The overpayments occurred because of the State agency's lack of system edits to detect erroneous or incorrect hospital entries in its payment system. The State agency made its payments on the basis of data it received from the hospitals, which was not always accurate. As a result, the State agency made Medicaid overpayments to hospitals totaling $344,460 ($224,188 Federal share).

Recommendation#1
Recover $344,460 in Medicaid overpayments.

Agency Response and Corrective Action Plan:
The Agency partially concurs with this recommendation pending the results of further research. The Agency has recovered the overpayments associated with 50 claims totaling $113,283 of the original 153 claims that totaled $344,460 identified in the audit. These recoveries occurred between July 2009 and October 2013. The Agency continues to research the remaining 103 claims, totaling $231,177, and will initiate recovery efforts for those claims determined to be paid in error. Partial concurrence was noted because Florida does not have access to the Medicare payment system, nor does it have the specific claim data directly from Medicare. The overpayment determination in the instant audit was supported by a spreadsheet with this derivative information, which could be subject to errors. Florida does not have a way to verify these instances of overpayment without the information from Medicare.

Recommendation#2
Refund $224,188 to the Federal Government.

Agency Response and Corrective Action Plan:
The Agency partially concurs with this recommendation pending the results of further research. As noted in the Agency's response to Recommendation #1, the Agency has recovered the overpayments associated with 50 claims totaling $113,283. The Federal share of this recovery activity was returned to the Federal government through the standard FL Medicaid Management System (MMIS) recoupment process. The Agency will continue to research the remaining 103 claims and refund the Federal share for any claims found to be paid in error. Partial concurrence was noted because Florida does not have access to the Medicare payment system, nor does it have the specific claim data directly from Medicare. The overpayment determination in the instant audit was supported by a spreadsheet with this derivative information, which could be subject to errors. Florida does not have a way to verify these instances of overpayment without the information from Medicare.

Recommendation#3
Ensure system edits are in place to prevent the overpayments that occurred.

Agency Response and Corrective Action Plan:
The Agency concurs with this recommendation and this has been completed. Medicaid Contract Management identified an Inpatient Crossover claim issue in the FL MMIS in January 2012, and implemented an edit correction February 2012. Change Order # 30480 (Inpatient Xover Claims Issue) identified the issue that was not consistently populating/capturing the Medicare information on the claim System edits are now in place to correct that particular defect and prevent the related overpayments that occurred.

Agency for Health Care Administration
Florida Paid Hospitals For Some Inpatient Hospital Services That Medicare Paid
Response to HHS/OIG Draft Report Number A-04-12-06158 dated February 2014

Recommendation#4
Strengthen guidance and provider education activities related to inpatient deductible billing.

Agency Response and Corrective Action Plan:
The Agency concurs with this recommendation. The Agency already communicates Medicaid policy to the provider community through various methods and materials including Provider Coverage and Limitation Handbooks, fee schedules, provider alerts, and provider outreach activities. These materials are available to Medicaid providers through the public web portal. The Agency currently maintains area offices to assist the provider community with claims billing questions, and the Agency's fiscal agent employs provider field representatives to visit, train, and further assist Medicaid providers. Additionally, the Agency maintains an email address specific to hospitals allowing them to email questions directly to Agency staff.