

Department of Health and Human Services
Office of Inspector General



Office of Audit Services

September 2025 | A-06-24-09001

Texas Did Not Calculate or Collect Hospice Cap Overpayments Totaling \$10.5 Million

REPORT HIGHLIGHTS



September 2025 | A-06-24-09001

Texas Did Not Calculate or Collect Hospice Cap Overpayments Totaling \$10.5 Million

Why OIG Did This Audit

- In States for which hospice services are covered under Medicaid, two annual limits (called caps) may apply to hospice providers. In these States, hospices are required to repay Medicaid for payments received that exceeded applicable caps (i.e., overpayments).
- Our audit determined whether Texas correctly calculated and collected hospice cap overpayments and refunded the Federal share of those overpayments to the Federal Government.

What OIG Found

- Texas overpaid \$10.5 million (\$6.9 million Federal share) to 174 hospices (36 percent of hospices that received payments) for services provided during Federal fiscal years 2020 through 2022 because it did not have any policies and procedures related to calculating and collecting the hospice cap overpayments. Texas did not calculate these cap overpayments; therefore, it did not collect them or return the related Federal share.

What OIG Recommends

We recommend that Texas:

1. collect the hospice cap overpayments totaling \$10.5 million and refund the Federal share of \$6.9 million to the Federal Government and
2. develop and implement policies and procedures related to calculating and collecting hospice cap overpayments.

Texas did not indicate concurrence or nonconcurrence with our first recommendation, agreed with our second recommendation, and detailed steps it plans to take in response to our recommendations.

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INTRODUCTION

WHY WE DID THIS AUDIT

Hospice care can provide great comfort to individuals, families, and caregivers at the end of an individual's life. Medicare covers hospice care. Under Medicaid, hospice is an optional benefit, depending on a State's Medicaid program. There are two annual limits (called caps) on hospice payments made to providers that may apply. Hospices are required to repay Medicaid for payments the hospices received that exceeded applicable hospice caps (i.e., overpayments).

As part of its oversight activities, the Office of Inspector General (OIG) conducted a series of audits related to Medicare Administrative Contractors' oversight of hospice cap calculations and is now conducting a series of audits related to Medicaid hospice caps and overpayments.¹ This audit focused on Texas, which ranked highest in the Nation for total computable hospice expenditures for Federal fiscal year (FFY) 2022. In Texas, the Health and Human Services Commission (State agency) administers the Medicaid program.

OBJECTIVE

Our objective was to determine whether the State agency correctly calculated and collected hospice cap overpayments and refunded the Federal share of those overpayments to the Federal Government.

BACKGROUND

Medicaid Program

The Medicaid program provides medical assistance to certain 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 each State has considerable flexibility in designing and operating its Medicaid program, it must comply with applicable Federal requirements.

The Federal Government pays its share of a State's Medicaid expenditures based on the Federal Medical Assistance Percentage (FMAP), which varies depending on the State's relative per capita income. Texas' FMAPs from FFYs 2020 through 2022 (audit period) ranged from 60.89 percent to 68.01 percent. Within 30 days after the end of each quarter, States report expenditures and the associated Federal share on the Quarterly Medicaid Statement of Expenditures for the Medical Assistance Program (CMS-64). The amounts that States report must represent actual expenditures (42 CFR § 430.30).

¹ See Appendix B for a list of related OIG reports.

Medicaid Hospice Benefit

The Medicaid hospice benefit is an optional Medicaid State plan service that Texas has elected to offer enrollees. The hospice benefit includes an array of services (e.g., nursing and medical social services) furnished to terminally ill enrollees. The four categories of hospice care are (1) routine home care, (2) continuous home care, (3) inpatient respite care, and (4) general inpatient care. Payment for services is made at one of four predetermined rates based on the level of care.

Hospice Inpatient Cap and Aggregate Cap

Under Medicaid, payments made to hospices are limited by an inpatient cap and an optional aggregate cap. Cap amounts are calculated annually, and any amount paid to a hospice in excess of either cap amount is an overpayment and must be refunded by the hospice (Chapter 4 §§ 4306.5 and 4308 of CMS's *State Medicaid Manual* (the Manual)).²

Inpatient Cap

Section 4306.5 of the Manual states that payments to a hospice for inpatient care must be limited according to the number of days of inpatient care furnished to Medicaid patients. A hospice's inpatient care days may not exceed 20 percent of its aggregate total number of days of hospice care provided to all Medicaid enrollees during an FFY.³ An example of how excess inpatient days are calculated is detailed in Table 1.

Table 1: Excess Inpatient Days Calculation

Total Hospice Care Days	1,000
Allowable Inpatient Days (20 percent of Total Hospice Care Days)	200
Actual Number of Inpatient Days	250
Excess Inpatient Days	50

When a hospice's total inpatient days are less than or equal to the allowable inpatient days, there is no overpayment. Conversely, when a hospice's total inpatient days are more than the allowable inpatient days, the State agency should calculate an overpayment for the excess days. The Manual states that the overpayment should be based on the difference between the inpatient payment rate and the routine home care rate for the excess days.

² If the State agency claims amounts in excess of allowable amounts (i.e., overpayments) on a CMS-64, it must refund the Federal share (Social Security Act § 1903(d)(2)(A)).

³ The cap period was aligned with the FFY starting in FFY 2017.

Aggregate Cap

Section 4308 of the Manual states that a State may limit aggregate payments made to a hospice during a hospice cap period. The total payment made for services furnished to Medicaid enrollees during this period is compared to the “cap amount” for this period (\$31,298 in FFY 2022). Any payments in excess of the cap must be refunded by the hospice.

The aggregate cap amount represents the maximum amount of Medicaid payments a hospice could have received for a cap year. The aggregate cap is calculated by multiplying the number of Medicaid enrollees receiving hospice care during the period by the current cap amount. The cap amount is adjusted every year. Each hospice is responsible for reporting the number of Medicaid enrollees electing hospice care during the cap year to the State agency.

An example of an aggregate cap calculation for one hospice is detailed in Table 2.

Table 2: Aggregate Cap Calculation

Medicaid Enrollee Count	50
Cap Amount for 2022	\$31,298
Aggregate Cap Amount for Cap Year 2022 (Enrollee Count multiplied by Cap Amount)	\$1,564,900

If payments made to a hospice were less than the aggregate cap amount, there is no overpayment. Conversely, if payments made to a hospice exceeded the aggregate cap amount, the difference is considered an overpayment.

Medicaid Hospice Caps in Texas

Effective September 1, 2011, CMS approved an attachment to the Texas Medicaid State plan in which Texas stated that it meets the requirements of sections 4305 through 4308 of the Manual, which discusses hospice services.⁴ Section 4306.5 states that payments to a hospice for inpatient care must be limited through the application of the inpatient hospice cap. Section 4308 of the Manual states that a State may limit overall aggregate payments made to a hospice during a hospice cap period. In April 2012, the Texas Department of Aging and Disability Services (DADS), which was fully integrated with the State agency in 2017, sent letters to Medicaid hospice providers communicating its intent to calculate aggregate cap overpayments.⁵ The State agency’s *Medicaid Hospice Provider Manual* identifies the application of the aggregate cap as an allowable retroactive adjustment.⁶

⁴ Texas Medicaid State Plan, Attachment 3.1-A, Appendix 1, “Hospice Care,” page 40.

⁵ DADS, [Information Letter #12-42, “Hospice Aggregate Cap,”](#) dated Apr. 18, 2012.

⁶ *Medicaid Hospice Provider Manual*, Section 5100.

HOW WE CONDUCTED THIS AUDIT

Our audit covered \$166.7 million in payments the State agency made to 490 hospices for services provided during our audit period (FFYs 2020 through 2022). We obtained Medicaid hospice services claims data for the audit period, discussed the hospice cap calculation process with State agency officials, and calculated hospice cap overpayments and the related Federal share.

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.

FINDING

THE STATE AGENCY DID NOT CALCULATE OR COLLECT HOSPICE CAP OVERPAYMENTS

The State agency did not calculate or collect hospice cap overpayments or refund the Federal share of those overpayments to the Federal Government. Of the \$166.7 million in payments for Medicaid hospice services provided during our audit period, the State agency overpaid \$10.5 million to 174 hospices (36 percent of hospices that received payments).⁷ The State agency did not calculate these cap overpayments; therefore, it did not collect them or return the related Federal share of \$6.9 million.⁸ Table 3 summarizes the hospice cap overpayments and related Federal share by FFY.

Table 3: Summary of Overpayments by Fiscal Year

Fiscal Year	Hospices With Overpayments	Total Overpayments	Applicable FMAP	Federal Share
2020	73	\$2,731,342	60.89	\$1,663,114
2021	102	4,890,644	68.01	3,326,127
2022	78	2,876,437	67.00	1,927,213
Total		\$10,498,423		\$6,916,454

This occurred because the State agency did not have any policies and procedures related to calculating and collecting hospice cap overpayments during our audit period. State agency

⁷ The exact overpayments totaled \$10,498,423, consisting of \$10,198,704 that exceeded aggregate cap amounts and \$299,719 that exceeded inpatient cap amounts.

⁸ The exact Federal share was \$6,916,454.

officials also explained that there was a reorganization within the agency and that the responsibility for calculating the cap overpayments moved from DADS to the State agency, and the State agency did not assign the responsibility.

RECOMMENDATIONS

We recommend that the Texas Health and Human Services Commission:

- collect the hospice cap overpayments totaling \$10,498,423 and refund the Federal share of \$6,916,454 to the Federal Government and
- develop and implement policies and procedures related to calculating and collecting hospice cap overpayments.

STATE AGENCY COMMENTS

In written comments on our draft report, the State agency did not indicate concurrence or nonconcurrence with our first recommendation, agreed with our second recommendation, and detailed steps it plans to take in response to our recommendations. Specifically, the State agency stated that it would conduct an analysis to verify the calculated overpayment amounts and refund the Federal share upon completion of the overpayment recoupment process. The State agency also stated that it would develop policies and procedures related to calculating and collecting hospice cap overpayments.

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

APPENDIX A: AUDIT SCOPE AND METHODOLOGY

SCOPE

Our audit covered \$166.7 million in payments the State agency made to 490 hospices for services provided in FFYs 2020 through 2022 (October 1, 2019, through September 30, 2022).

The State agency did not have internal controls over its hospice cap calculation and overpayment collection processes. As a result, we were not able to assess the design, implementation, and operating effectiveness of the internal controls.

We performed testing of the State agency's Transformed Medicaid Statistical Information System (T-MSIS) Medicaid hospice claims data and determined that the data was reliable.⁹

We conducted our audit from January 2024 through July 2025.

METHODOLOGY

To accomplish our objective, we:

- reviewed applicable Federal and State laws, regulations, and policies;
- discussed the hospice cap calculation process with State agency officials;
- obtained the State agency's T-MSIS Medicaid claims data for hospice services provided in FFYs 2020 through 2022;
- verified the reliability of the Medicaid hospice claims data by reconciling it to the State agency's hospice expenditures it reported on the CMS-64 and to other summary-level hospice services information from the State agency;¹⁰
- calculated hospice cap overpayments and the related Federal share; and
- discussed the results of our audit 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

⁹ T-MSIS collects Medicaid data which includes claims data from U.S. States, territories, and the District of Columbia into the largest national resource of enrollee information.

¹⁰ The State agency attempted to calculate hospice cap overpayments after we initiated the audit. In its attempt, the State agency created the other summary-level hospice services information we used to verify the T-MSIS data's reliability.

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 B: RELATED OFFICE OF INSPECTOR GENERAL REPORTS

Report Title	Report Number	Date Issued
<i>CGS Administrators, LLC, Did Not Reopen and Recalculate Most Selected Hospices' Cap for Years Prior to 2020</i>	<u>A-06-23-09003</u>	11/27/2024
<i>National Government Services, Inc., Accurately Calculated Hospice Cap Amounts but Did Not Collect All Cap Overpayments</i>	<u>A-06-21-08004</u>	11/17/2022
<i>Palmetto GBA, LLC, Accurately Calculated Hospice Cap Amounts but Did Not Collect All Cap Overpayments</i>	<u>A-06-19-08003</u>	7/20/2021

APPENDIX C: STATE AGENCY COMMENTS



TEXAS
Health and Human
Services

Texas Health and Human Services Commission

Cecile Erwin Young
Executive Commissioner

Texas Health and Human Services Commission (HHSC)
Management Response to

***Texas Did Not Calculate or Collect Hospice Cap Overpayments Totaling
\$10.5 Million (A-06-24-09001)***

Management Response to Recommendation 1

Recommendation 1:

Collect the hospice cap overpayments totaling \$10,498,423 and refund the Federal share of \$6,916,454 to the Federal Government.

Statement of Concurrence or Nonconcurrence and Actions Taken and/or Planned

HHSC agrees that hospice cap payments were not collected or refunded during the audit scope period (federal fiscal year (FFY) 2020 through FFY 2022). HHSC will conduct analysis to verify the calculated amounts included in the audit and will refund the federal share upon completion of the recoupment referral process.

Recommendation 1 implementation will occur after Recommendation 2 is completed.

Responsible Manager

Chief Medical Director

Target Implementation Date

August 31, 2026

P.O. Box 13247 • Austin, Texas 78711-3247 • 512-424-6500 • hhs.texas.gov

Management Response to Recommendation 2
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Recommendation 2:

Develop and implement policies and procedures related to calculating and collecting hospice cap overpayments.

Statement of Concurrence or Nonconcurrence and Actions Taken and/or Planned

HHSC agrees with the recommendation and will develop policies and procedures related to calculating and collecting hospice cap overpayments as outlined below:

- Develop provider information letter to notify providers of hospice cap reviews.
- Develop provider recoupment notification letter for hospice providers with overpayments.
- Develop a recoupment referral and collection process to include return of federal share on an ongoing basis.
- Develop a process for providers requesting an appeal.

Responsible Manager

Chief Medical Director

Target Implementation Date

February 28, 2026

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