

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**NEBRASKA INCORRECTLY CLAIMED
FEDERAL REIMBURSEMENT FOR
INPATIENT CLAIMS WITH
STERILIZATION AND DELIVERY
PROCEDURES FOR THE PERIOD
APRIL 1, 2011, THROUGH
DECEMBER 31, 2013**

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



Patrick J. Cogley
Regional Inspector General
for Audit Services

October 2014
A-07-14-01136

Office of Inspector General

<http://oig.hhs.gov/>

The mission of the Office of Inspector General (OIG), as mandated by Public Law 95-452, as amended, is to protect the integrity of the Department of Health and Human Services (HHS) programs, as well as the health and welfare of beneficiaries served by those programs. This statutory mission is carried out through a nationwide network of audits, investigations, and inspections conducted by the following operating components:

Office of Audit Services

The Office of Audit Services (OAS) provides auditing services for HHS, either by conducting audits with its own audit resources or by overseeing audit work done by others. Audits examine the performance of HHS programs and/or its grantees and contractors in carrying out their respective responsibilities and are intended to provide independent assessments of HHS programs and operations. These assessments help reduce waste, abuse, and mismanagement and promote economy and efficiency throughout HHS.

Office of Evaluation and Inspections

The Office of Evaluation and Inspections (OEI) conducts national evaluations to provide HHS, Congress, and the public with timely, useful, and reliable information on significant issues. These evaluations focus on preventing fraud, waste, or abuse and promoting economy, efficiency, and effectiveness of departmental programs. To promote impact, OEI reports also present practical recommendations for improving program operations.

Office of Investigations

The Office of Investigations (OI) conducts criminal, civil, and administrative investigations of fraud and misconduct related to HHS programs, operations, and beneficiaries. With investigators working in all 50 States and the District of Columbia, OI utilizes its resources by actively coordinating with the Department of Justice and other Federal, State, and local law enforcement authorities. The investigative efforts of OI often lead to criminal convictions, administrative sanctions, and/or civil monetary penalties.

Office of Counsel to the Inspector General

The Office of Counsel to the Inspector General (OCIG) provides general legal services to OIG, rendering advice and opinions on HHS programs and operations and providing all legal support for OIG's internal operations. OCIG represents OIG in all civil and administrative fraud and abuse cases involving HHS programs, including False Claims Act, program exclusion, and civil monetary penalty cases. In connection with these cases, OCIG also negotiates and monitors corporate integrity agreements. OCIG renders advisory opinions, issues compliance program guidance, publishes fraud alerts, and provides other guidance to the health care industry concerning the anti-kickback statute and other OIG enforcement authorities.

Notices

THIS REPORT IS AVAILABLE TO THE PUBLIC

at <http://oig.hhs.gov/>

Section 8M of the Inspector General Act, 5 U.S.C. App., requires that OIG post its publicly available reports on the OIG Web site.

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

Nebraska claimed \$268,000 in excess Federal reimbursement for Medicaid family planning inpatient claims with sterilization and delivery procedures.

WHY WE DID THIS REVIEW

Family planning services, including inpatient sterilization procedures, prevent or delay pregnancy or otherwise control family size. Federal law and regulations authorize Federal Medicaid reimbursement to States for family planning services at an enhanced Federal medical assistance percentage (FMAP) of 90 percent (90-percent rate). Previous Office of Inspector General reviews found that States improperly claimed reimbursement at the 90-percent rate for services that were eligible only for the regular FMAP or were ineligible for Federal reimbursement.

The objective of this review was to determine whether the Nebraska Department of Health & Human Services (State agency) correctly claimed costs for inpatient claims with sterilization and delivery procedures for the period April 1, 2011, through December 31, 2013 (audit period).

BACKGROUND

In Nebraska, the State agency administers the Medicaid program. Federal reimbursement is available at the 90-percent rate for inpatient sterilization services. When sterilization and delivery procedures are performed during a single hospital stay, the Centers for Medicare & Medicaid Services (CMS) requires that the State agency's claim for Federal reimbursement distinguish between those costs attributable to family planning (eligible for Federal reimbursement at the 90-percent rate) and those costs attributable to other covered services (reimbursed at the FMAP). For our audit period, the State agency's FMAP ranged from 58.44 percent to 54.74 percent.

During the period April 1, 2011, through December 31, 2013, the State agency reported costs of \$2,020,973 for 324 inpatient claims with sterilization and delivery procedures for which the State agency claimed Federal reimbursement of \$1,549,241 at either the 90-percent rate or the FMAP.

WHAT WE FOUND

The State agency did not correctly claim costs for inpatient claims with sterilization and delivery procedures for the audit period. For the 11 quarters in our audit period, the State agency incorrectly claimed the costs associated with 804 sterilization procedures instead of claiming the costs for the 324 procedures that were actually performed. In addition, for one quarter, the State agency inadvertently based its claim for inpatient sterilization procedures on an incorrect amount.

As a result of these errors, the State agency received \$268,285 of unallowable Federal reimbursement. These errors occurred because the State agency did not follow its policies and procedures in claiming costs for inpatient claims with sterilization and delivery procedures.

WHAT WE RECOMMEND

We recommend that State agency:

- refund \$268,285 to the Federal Government and
- strengthen policies and procedures to ensure that costs for inpatient claims with sterilization and delivery procedures are claimed pursuant to Federal requirements.

AUDITEE COMMENTS

In written comments on our draft report, the State agency agreed to refund the incorrectly claimed costs to the Federal government and described corrective actions that it had taken to strengthen its controls.

TABLE OF CONTENTS

INTRODUCTION	1
Why We Did This Review	1
Objective	1
Background	1
Medicaid Program	1
Nebraska Medicaid Program	1
Medicaid Coverage of Family Planning Services	1
Family Planning Inpatient Sterilization Procedure Claims in Nebraska	2
How We Conducted This Review	3
FINDINGS	3
Incorrect Federal Reimbursement for Inpatient Claims With Sterilization and Delivery Procedures	3
Policies and Procedures Not Followed	4
RECOMMENDATIONS	4
AUDITEE COMMENTS	4
APPENDIXES	
A: Related Office of Inspector General Reports	5
B: Audit Scope and Methodology	6
C: Auditee Comments	8

INTRODUCTION

WHY WE DID THIS REVIEW

Family planning services, including inpatient sterilization procedures, prevent or delay pregnancy or otherwise control family size. Federal law and regulations authorize Federal Medicaid reimbursement to States for family planning services at an enhanced Federal medical assistance percentage (FMAP) of 90 percent (90-percent rate). Previous Office of Inspector General reviews (Appendix A) found that States improperly claimed reimbursement at the 90-percent rate for services that were eligible only for the regular FMAP or were ineligible for Federal reimbursement.

OBJECTIVE

Our objective was to determine whether the Nebraska Department of Health & Human Services (State agency) correctly claimed costs for inpatient claims with sterilization and delivery procedures for the period April 1, 2011, through December 31, 2013 (audit period).

BACKGROUND

Medicaid Program

Under 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.

Nebraska Medicaid Program

In Nebraska, the State agency is responsible for administering the Medicaid program. The amount that the Federal Government reimburses to State Medicaid agencies, known as Federal financial participation (FFP) or Federal share, is determined by the FMAP. The FMAP is a variable rate that is based on a State's relative per capita income. For our audit period, the State agency's FMAP ranged from 58.44 percent to 54.74 percent.

The State agency uses its Medicaid Management Information System (MMIS) to process claims. MMIS is a computerized payment and information reporting system that States are required to use to process and pay Medicaid claims.

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 (including minors who can be considered to be sexually active)

who are eligible under the State plan and who desire such services and supplies. Section 1903(a)(5) of the Act and 42 CFR §§ 433.10(c)(1) and 433.15(b)(2) authorize Federal reimbursement at a 90-percent rate for family planning services.

Section 4270 of the CMS *State Medicaid Manual* (the Manual) describes family planning services as those that prevent or delay pregnancy or otherwise control family size. Family planning services include, but are not limited to, the following items and services: counseling services and patient education, examination and treatment by medical professionals in accordance with States' requirements, devices to prevent conception, and sterilization procedures; and may include infertility services, including sterilization reversals.

The CMS *Title XIX Financial Management Review Guide Number 20: Family Planning Services* (the Guide) provides specific instructions for performing financial management reviews of claims for family planning services. The Guide, published in 2002, incorporates by reference a 1980 memorandum on CMS's policy for allocating family planning inpatient hospital costs in cases when multiple procedures are performed. The guide also incorporates the 1991 U.S. Department of Health and Human Services, Departmental Appeals Board (DAB), Decision No. 1284, which addresses the methodology for allocating these costs in cases when multiple procedures are performed.¹

Family Planning Inpatient Sterilization Procedure Claims in Nebraska

To identify claims that include family planning inpatient sterilization procedures, the State agency used indicators such as procedure codes and diagnosis codes from its MMIS. Specifically, as part of the State agency's policy and procedures, the MMIS produced an internal sterilization report that identified inpatient claims with sterilization (family planning) and delivery (non-family planning) procedures. On claims with both sterilization and delivery procedures, the State agency had a policy to assign a specific amount as the cost attributable to each sterilization procedure (eligible for reimbursement at the 90-percent rate) and classified the remainder (delivery portion) of the cost as non-family planning services (eligible for reimbursement at the FMAP). Thus, for these types of claims, if the State agency *overstated* the costs for sterilization procedures, it would also *understate* its costs for delivery procedures.

In response to a previous audit report,² the State agency revised its policy for calculating the specific amount as the cost attributable to sterilization procedures (on claims with sterilization and delivery procedures). Accordingly, for the quarter ending March 31, 2013, the State agency made an adjustment, which was retroactive to the quarter ending June 30, 2011 (which was the first quarter of our audit period), in an effort to ensure that its claims for sterilization procedures complied with the revised policy.

¹ New York State Department of Social Services, DAB No. 1284 (1991).

² *Review of the Quarterly Medicaid Statement of Expenditures for the Medical Assistance Program in Nebraska* (A-07-11-02759), issued November 1, 2011.

HOW WE CONDUCTED THIS REVIEW

During the period April 1, 2011, through December 31, 2013, the State agency reported costs of \$2,020,973 for 324 inpatient claims with sterilization and delivery procedures for which the State agency claimed Federal reimbursement of \$1,549,241 at either the 90-percent rate or the FMAP.

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 B contains details of our audit scope and methodology.

FINDINGS

The State agency did not correctly claim costs for inpatient claims with sterilization and delivery procedures for the audit period. For the 11 quarters in our audit period, the State agency incorrectly claimed the costs associated with 804 sterilization procedures instead of claiming the costs for the 324 procedures that were actually performed. In addition, for one quarter, the State agency inadvertently based its claim for inpatient sterilization procedures on an incorrect amount.

As a result of these errors, the State agency received \$268,285 of unallowable Federal reimbursement. These errors occurred because the State agency did not follow its policies and procedures in claiming costs for inpatient claims with sterilization and delivery procedures.

INCORRECT FEDERAL REIMBURSEMENT FOR INPATIENT CLAIMS WITH STERILIZATION AND DELIVERY PROCEDURES

Federal regulations require that the State agency “[m]aintain an accounting system and supporting fiscal records to assure that claims for Federal funds are in accord with applicable Federal requirements....” (42 CFR § 433.32(a)).

Section 4270 of the Manual states that only items and procedures clearly furnished or provided for family planning purposes may be claimed at the 90-percent rate.

Contrary to these Federal requirements, the State agency incorrectly claimed costs for inpatient claims with sterilization and delivery procedures for which it received \$268,285 in unallowable Federal reimbursement.

- For each of the 11 quarters in our audit period, the State agency claimed costs for a higher number of sterilization procedures than were actually performed. An error in the internal sterilization report caused the State agency to claim the costs associated with 804 sterilization procedures instead of claiming costs for the 324 procedures that were actually performed. Specifically, the State agency’s sterilization report incorrectly

classified the total number of days that the patients were in hospitals as the number of sterilization procedures that were performed. For example, a patient with a 3-day hospital stay was incorrectly reported as having undergone three sterilization procedures instead of the one procedure actually performed. As a result of this error, the State agency claimed \$205,841 in unallowable Federal reimbursement.

- For the quarter ending June 30, 2011, the State agency based its claim for inpatient sterilization procedures on an incorrect amount. The State agency inadvertently used an incorrect subtotal from its sterilization report to determine the specific costs that it claimed for sterilization procedures. Further, the adjustment that the State agency made for the quarter ending March 31, 2013, to correct costs reported in prior periods did not address this overstated cost. As a result of this error, the State agency claimed \$62,444 in unallowable Federal reimbursement.

Because the State agency—for both of these errors—overstated the costs attributable to sterilization procedures (claimed at the 90-percent rate), it also understated its cost for delivery procedures (claimed at the FMAP). Thus, the unallowable Federal reimbursement equaled the difference between the 90-percent rate and the FMAP.

POLICIES AND PROCEDURES NOT FOLLOWED

These errors occurred because the State agency did not follow its policies and procedures. The State agency had policies and procedures to identify and claim the costs attributable to inpatient sterilization procedures. However, a computer-programming error caused the State agency's sterilization report to show an incorrect number of sterilization procedures than the number actually performed. In addition, a human error caused the State agency to base its claim for one quarter on an incorrect amount.

RECOMMENDATIONS

We recommend that State agency:

- refund \$268,285 to the Federal Government and
- strengthen policies and procedures to ensure that costs for inpatient claims with sterilization and delivery procedures are claimed pursuant to Federal requirements.

AUDITEE COMMENTS

In written comments on our draft report, the State agency agreed to refund the incorrectly claimed costs to the Federal government and described corrective actions that it had taken to strengthen its controls.

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

APPENDIX A: RELATED OFFICE OF INSPECTOR GENERAL REPORTS

Report Title	Report Number	Date Issued
<i>Missouri Did Not Always Correctly Claim Costs for Medicaid Family Planning Drugs for Calendar Years 2009 and 2010</i>	A-07-12-01118	01/28/2014
<i>Missouri Did Not Always Correctly Claim Costs for Medicaid Family Planning Sterilization Procedures for Calendar Years 2009 and 2010</i>	A-07-12-01117	06/12/2013
<i>Missouri Incorrectly Claimed Federal Reimbursement for Inpatient Claims With Sterilization and Delivery Procedures for Calendar Years 2009 and 2010</i>	A-07-12-01121	03/13/2013
<i>Arkansas Inappropriately Received Medicaid Family Planning Funding for Federal Fiscal Years 2006 Through 2010</i>	A-06-11-00022	01/18/2013
<i>California Improperly Claimed Enhanced Federal Reimbursement for Medicaid Family Planning Services Provided in San Diego County</i>	A-09-11-02040	12/20/2012
<i>Wyoming Incorrectly Claimed Enhanced Reimbursement for Medicaid Family Planning Sterilization Costs</i>	A-07-11-01100	08/17/2012
<i>North Carolina Incorrectly Claimed Enhanced Federal Reimbursement for Some Medicaid Waiver Services That Were Not Family Planning</i>	A-04-10-01091	06/15/2012
<i>North Carolina Incorrectly Claimed Enhanced Federal Reimbursement for Some Medicaid Services That Were Not Family Planning</i>	A-04-10-01089	06/15/2012
<i>Oregon Improperly Claimed Federal Reimbursement for Medicaid Family Planning Services Provided Under the Family Planning Expansion Project</i>	A-09-11-02010	01/26/2012

APPENDIX B: AUDIT SCOPE AND METHODOLOGY

SCOPE

We reviewed \$2,020,973 of costs that the State agency reported for 324 inpatient claims with sterilization and delivery procedures for the period April 1, 2011, through December 31, 2013. For these 324 claims, the State agency claimed Federal reimbursement of \$1,549,241 at either the 90-percent rate or the FMAP.

We reviewed the FFP rates used to calculate the Federal reimbursement that the State agency received from its claimed expenditures, but we did not review the medical necessity of the claims. Further, we did not review the overall internal control structure of the State agency or the Medicaid program. We reviewed only the internal controls that pertained directly to our objective.

We performed audit work from February through May 2014.

METHODOLOGY

To accomplish our objective, we:

- reviewed Federal laws, regulations, and guidance and the Nebraska State plan;
- held discussions with CMS officials to gain an understanding of CMS requirements and guidance furnished to State agency officials concerning Medicaid family planning claims;
- held discussions with State agency officials to gain an understanding of how the State agency claimed Medicaid reimbursement for family planning inpatient sterilization procedures;
- reconciled family planning expenditures for inpatient sterilization procedures reported on the CMS-64 reports³ with the State agency's claims data;
- identified, on inpatient claims with both sterilization and delivery procedures, the costs that the State agency claimed for reimbursement at the 90-percent rate and the costs that it claimed for reimbursement at the FMAP;
- calculated the correct Federal reimbursement amount using the State agency's revised policies and procedures to separate family planning and non-family planning costs for inpatient claims with sterilization and delivery procedures;

³ States use the standard Form CMS-64, Quarterly Medicaid Statement of Expenditures for the Medical Assistance Program (CMS-64 report), to report actual Medicaid expenditures for each quarter. CMS uses the CMS-64 reports to reimburse States for the Federal share of Medicaid expenditures. The amounts that States report on the CMS-64 report and its attachments must be actual expenditures with supporting documentation.

- calculated the amount of incorrect Federal reimbursement for inpatient claims with sterilization and delivery procedures; and
- discussed the results of our review with State agency officials on May 15, 2014, and provided a list of questioned costs by quarter.

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 C: AUDITEE COMMENTS



Division of Medicaid and Long-Term Care

State of Nebraska

Dave Heineman, Governor

Patrick J. Cogley
Regional Inspector General for Audit Services
Office of Inspector General
Department of Health and Human Services, Region VII
601 East 12th Street, Room 0429
Kansas City, MO 64106

RE: Report Number: A-07-14-01136

Dear Mr. Cogley:

The Nebraska Department of Health and Human Services (the Department) Division of Medicaid and Long-Term Care is pleased to have the opportunity to respond to the Draft Audit Report entitled *Nebraska Incorrectly Claimed Federal Reimbursement for Inpatient Claims With Sterilization and Delivery Procedures for the Period April 1, 2011, Through December 31, 2013*. The Department strives to administer Inpatient Claims with Sterilization and Delivery Procedures in compliance with current Federal and State law, policies, and procedures and is committed to working to resolve the issues identified in this audit.

The Department is also appreciative of the hard work on the part of the OIG staff to gather information from our staff. Your observations are important in helping improve policies and procedures already in place and ensure continued compliance. The Department's specific responses to each of the recommendations identified in the Audit Report follow.

OIG Recommendation #1: We recommend that the State agency refund to the Federal Government \$268,285 (Federal share) for incorrectly claimed costs associated with inpatient claims with sterilization and delivery procedures.

DHHS response: The Department made prior period adjustments totaling \$236,563 (Federal share) of the identified incorrectly claimed costs for the last two quarters of 2012 and all of 2013, on the CMS 64 during the quarter ended March 31, 2014. The Department is waiting for the official OIG audit finding to be issued in order to make prior period adjustments for the remaining quarters in question. It is anticipated this adjustment will be included with the CMS 64 for the quarter ended December 31, 2014.

OIG Recommendation #2: We recommend that the State agency strengthen policies and procedures to ensure that costs for inpatient claims with sterilization and delivery procedures are claimed pursuant to Federal requirements.

DHHS response: A system change request has been implemented to ensure sterilization services are being reported rather than days. Alternate procedures were in place prior to the implementation to ensure the correct number of sterilizations services were reported. Standard

Helping People Live Better Lives
An Equal Opportunity/Affirmative Action Employer
printed with soy ink on recycled paper

operating procedures are in place to ensure the costs for inpatient claims with sterilization and delivery procedures are claimed pursuant to Federal requirements.

Should you have any questions, do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink that reads "Ruth Vineyard". The signature is written in a cursive style with a large, stylized "R" and "V".

Ruth Vineyard
Deputy Director, Programs
Division of Medicaid and Long-Term Care
Department of Health and Human Services