DEPARTMENT OF HEALTH AND HUMAN SERVICES
OFFICE OF DIRECTOR

ACTION REFERRAL

TO	DATE
Day	5-13-14

DIRECTOR'S USE ONLY	ACTION REQUESTED
1. LOG NUMBER 000381	[ ] Prepare reply for the Director's signature DATE DUE _____
2. DATE SIGNED BY DIRECTOR *Please discuss w/ Dir Keck first. Maybe in your lane. Cleared 6/11/14, letter attached.	[X] Prepare reply for appropriate signature DATE DUE 6-3-14 [ ] FOIA DATE DUE _____ [ ] Necessary Action

APPROVALS (Only when prepared for director's signature)	APPROVE	* DISAPPROVE (Note reason for disapproval and return to preparer.)	COMMENT
1.			
2.			
3.			
4.			

DEPARTMENT OF HEALTH AND HUMAN SERVICES

OFFICE OF INSPECTOR GENERAL

OFFICE OF AUDIT SERVICES, REGION IV
61 FORSYTH STREET, SW, SUITE 3T41
ATLANTA, GA 30303

May 13, 2014

Report Number: A-04-13-00092

Anthony E. Keck
Office of the Director
P.O. Box 8206
Columbia, SC 29202

Dear Mr. Keck:

Enclosed is the U.S. Department of Health and Human Services, Office of Inspector General (OIG), draft report entitled *South Carolina Did Not Always Accurately Report and Refund the Federal Share of Medicaid Collections for July 1, 2011, Through December 31, 2012.* This draft report is subject to further review and revision. Please safeguard it against unauthorized use.

To properly consider your views on the validity of the facts and reasonableness of the recommendations in this report, we request that you provide us with written comments within 30 days from the date of this letter. Your comments should include a statement of concurrence or nonconcurrence with each recommendation.

- For each concurrence, please include a statement describing the nature of the corrective action taken or planned.

- For each nonconcurrence, please include specific reasons for the nonconcurrence and a statement of any alternative corrective action taken or planned.

Your written comments will be summarized in the body of our final report and included as an appendix. Please mail a paper copy of your comments to the address provided above.

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, the final report will be posted at https://oig.hhs.gov. To reduce the risk of identity theft, please send us, in addition to the paper copy of your comments, an electronic copy with /Your Name/ typed in place of your written signature. The electronic copy should be in Microsoft Word/Corel WordPerfect format or a PDF converted from a Microsoft Word/Corel WordPerfect file. Providing an electronic copy also will assist OIG in ensuring that your comments will be accessible to individuals with disabilities, as required by section 508 of the Rehabilitation Act of 1973, P.L. No. 93-112, as amended by P.L. No. 105-220.

If you have any questions or comments about this report, please do not hesitate to call me, or contact Eric Bowen, Audit Manager, at (404) 562-7789 or through email at Eric.Bowen@oig.hhs.gov. Please refer to report number A-04-13-00092 in all correspondence.

Sincerely,

Lori S. Pilcher
Regional Inspector General
for Audit Services

Enclosure

Department of Health and Human Services

OFFICE OF
INSPECTOR GENERAL

SOUTH CAROLINA DID NOT ALWAYS ACCURATELY REPORT AND REFUND THE FEDERAL SHARE OF MEDICAID COLLECTIONS FOR JULY 1, 2011, THROUGH DECEMBER 31, 2012

NOTICE – THIS DRAFT RESTRICTED TO OFFICIAL USE

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Lori S. Pilcher
Regional Inspector General

May 2014
A-04-13-00092

Office of Inspector General

https://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.

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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.

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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.

EXECUTIVE SUMMARY

For the period July 1, 2011 through December 31, 2012, South Carolina underreported the Federal share of its Medicaid collections to be refunded to the Federal Government by $445,000.

WHY WE DID THIS REVIEW

The Federal Government pays its share of a State's medical assistance costs under the Medicaid program on the basis of the Federal medical assistance percentage (FMAP), which varies depending on the State's relative per capita income. Previous Office of Inspector General reviews have shown that States did not always report collections properly or refund the Federal share at the appropriate FMAP.

The objective of our audit was to determine whether the South Carolina Department of Health and Human Services (State agency) accurately reported Medicaid collections for July 1, 2011, through December 31, 2012 (audit period).

BACKGROUND

Title XIX of the Social Security Act (the Act) established the Medicaid program to provide medical assistance to low-income individuals and individuals with disabilities. The Federal and State Governments jointly administer and fund the Medicaid program. At the Federal level, the Centers for Medicare & Medicaid Services (CMS) administers the Medicaid 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. In South Carolina, the State agency administers the Medicaid program.

The FMAP varies depending on the State's relative per capita income. Although FMAPs are adjusted annually for economic changes in the States, Congress may increase FMAPs at any time.

States claim Medicaid expenditures and the associated Federal share on the Quarterly Medicaid Statement of Expenditures for the Medical Assistance Program (CMS-64). The CMS-64 shows the disposition of Medicaid funds used to pay for medical and administrative costs for the quarter being reported and any prior-period adjustments.

To account for overpayments, refunds, and similar receipts, States report collections on the CMS-64. Collections decrease both the total expenditures reported for a quarter and the amount of Federal funding that States receive. If collections are underreported, the Federal share for the quarter will be higher than it should be. Conversely, overreporting collections results in a lower Federal share.

WHAT WE FOUND

For the audit period, the State agency generally accurately reported Medicaid collections on its CMS-64s. Of about $306 million in total collections, the State agency accurately reported and refunded the Federal share on about $294 million; however, it did not accurately report or refund the Federal share on about $12 million in collections related to third-party liability (TPL) claims and program integrity (PI) recoupments. For these collections, the State agency used the current FMAP, instead of the FMAP in effect at the time that the Federal Government matched the original expenditure, to calculate the Federal share to be refunded. As a result, the State agency underreported $444,806 Federal share of collections to be refunded to the Federal Government.

WHAT WE RECOMMEND

We recommend that the State agency:

- refund $444,806 to the Federal Government and
- develop and implement internal controls to ensure that it uses specific-period FMAPs to calculate the Federal share of TPL and PI collections to be refunded.

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INTRODUCTION

WHY WE DID THIS REVIEW

The Federal Government pays its share of a State's medical assistance costs under the Medicaid program on the basis of the Federal medical assistance percentage (FMAP), which varies depending on the State's relative per capita income. Previous Office of Inspector General reviews have shown that States did not always report collections properly or refund the Federal share at the appropriate FMAP (Appendix A).

OBJECTIVE

The objective of our audit was to determine whether the South Carolina Department of Health and Human Services (State agency) accurately reported Medicaid collections for July 1, 2011, through December 31, 2012 (audit period).

BACKGROUND

The Medicaid Program: How It Is Administered and How States Claim Federal Reimbursement for Expenditures

Title XIX of the Social Security Act (the Act) established the Medicaid program to provide medical assistance to low-income individuals and individuals with disabilities. The Federal and State Governments jointly administer and fund the Medicaid program. At the Federal level, the Centers for Medicare & Medicaid Services (CMS) administers the Medicaid 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. In South Carolina, the State agency administers the Medicaid program.

The Federal Government pays its share of a State's medical assistance costs under Medicaid on the basis of the FMAP, which varies depending on the State's relative per capita income (section 1905(b) of the Act). States with a lower per capita income relative to the national average are reimbursed a greater share of their costs. States with a higher per capita income are reimbursed a lesser share. For the audit period, South Carolina's FMAP ranged from 70.04 percent to 70.43 percent. Although FMAPs are adjusted annually for economic changes in the States, Congress may increase FMAPs at any time.[1]

The States claim Medicaid expenditures and the associated Federal share on the Quarterly Medicaid Statement of Expenditures for the Medical Assistance Program (CMS-64). The CMS-64 shows the disposition of Medicaid funds used to pay for medical and administrative costs for the quarter being reported and any prior-period adjustments. The amount claimed on

[1] For example, Congress passed the Recovery Act which provided additional Federal funding based on temporary increases in States' FMAPs (P.L. No. 111-5, § 5000 (Feb. 17, 2009)).

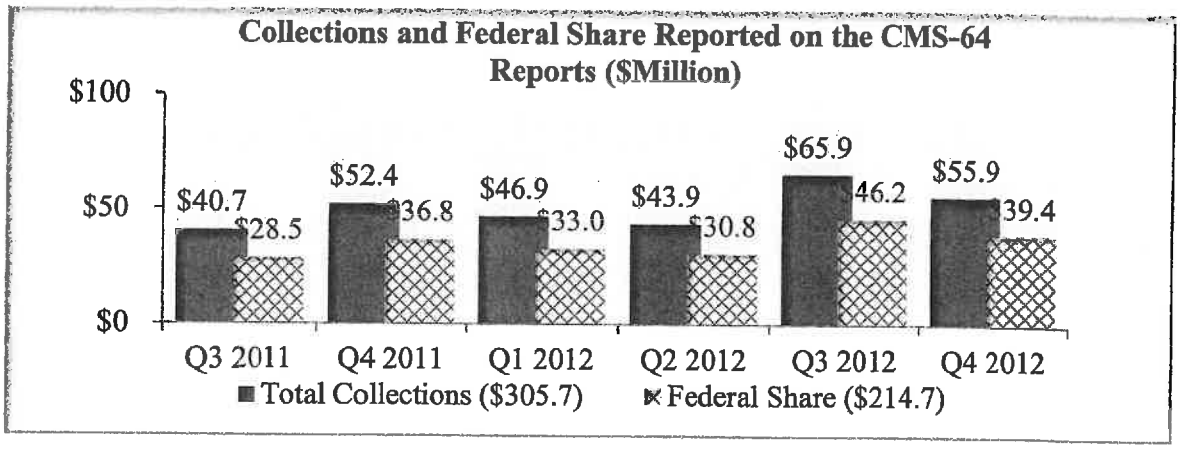
the CMS-64 is a summation of expenditures derived from source documents, such as claims, invoices, cost reports, and eligibility records.

To account for overpayments, refunds, and similar receipts, States report collections on the CMS-64. Collections decrease both the total expenditures reported for a quarter and the amount of Federal funding that States receive. If collections are underreported, the Federal share for the quarter will be higher than it should be. Conversely, overreporting collections results in a lower Federal share.

South Carolina Department Of Health And Human Services

At the end of each quarter, a State agency official used a State-generated general ledger report to identify collections to be reported on the CMS-64. Among other things, it included collections related to third-party liability (TPL) sources[2] and program integrity (PI) efforts.[3]

As shown on the following graph, the State agency reported collections totaling about $305.7 million ($214.7 million Federal share) on its CMS-64s for the audit period.



HOW WE CONDUCTED THIS REVIEW

We limited our review to Medicaid collections reported on the State agency's CMS-64s from July 1, 2011, through December 31, 2012 (audit period). We reviewed these collection amounts and supporting documentation to determine whether the State agency adequately supported specific-period FMAPs used to calculate the Federal share of collections refunded on the CMS-64s.

[2] TPL sources included collections from private health insurance, Medicare, employment-related health insurance, medical support from non-custodial parents, long-term care insurance, other federal programs, court judgments or settlements from a liability insurer, State workers' compensation, and first party probate-estate recoveries.

[3] The purpose of PI efforts is to guard against fraud, abuse, and deliberate waste of Medicaid program benefits.

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 the details of our audit scope and methodology, and Appendix C contains Federal requirements.

FINDING

For the audit period, the State agency generally accurately reported Medicaid collections on its CMS-64s. Of about $306 million in total collections, the State agency accurately reported and refunded the Federal share on about $294 million; however, it did not accurately report or refund the Federal share on about $12 million in collections related to TPL claims and PI recoupments. For these collections, the State agency used the current FMAP, instead of the FMAP in effect at the time that the Federal Government matched the original expenditure, to calculate the Federal share to be refunded. As a result, the State agency underreported $444,806 Federal share of collections to be refunded to the Federal Government.

FEDERAL SHARE INACCURATELY REPORTED FOR COLLECTIONS

CMS reimburses each State at the FMAP for the quarter in which the expenditure was made (section 1903(a)(1) of the Act). According to section 2500.1(B) of the CMS *State Medicaid Manual* (the Manual), the State agency must report an overpayment or other collection on the CMS-64 report for the quarter in which the recovery is made and must compute the Federal share of collections at the Federal matching rate at which CMS matched the original expenditure.

For the audit period, the State agency applied the current FMAP in effect at the time of collections to all $306 million in collections when calculating the Federal share to be refunded to the Federal Government. According to Federal requirements, if the State agency has the ability to match collections to a specific-period FMAP, then the State agency should compute the Federal share to be refunded at the specific-period FMAP that was in effect at the time the Federal Government matched the original expenditures. For about $12 million in collections related to TPL claims and PI recoupments, the State agency elected to use the current FMAP, instead of the FMAP in effect at the time that the Federal Government matched the original expenditure, to calculate the Federal share to be refunded.

Using the specific-period FMAP in effect at the time in which the Federal Government matched original expenditures, we calculated an underreported Federal share of $444,806 of collections to be refunded to the Federal Government.

Medicaid Management Information System Too Restrictive, Burdensome, and Challenging

According to State agency officials, it was too restrictive, burdensome, and challenging to make South Carolina's Medicaid Management Information System (MMIS) maintain all of the FMAP

rates used in recouping funds, particularly as data needed to be purged for capacity management. Considering the percentage differences between the various FMAPs immaterial, the State agency had previously elected to have the MMIS automatically calculate the Federal share of TPL and PI collections using the current FMAP, instead of the FMAP in effect at the time of the original expenditure. State agency officials also stated that these differences had increased as TPL and PI collections increased and that MMIS enhancements currently underway would address this deficiency.

RECOMMENDATIONS

We recommend that the State agency:

- refund $444,806 to the Federal Government and
- develop and implement internal controls to ensure that it uses specific-period FMAPs to calculate the Federal share of TPL and PI collections to be refunded.

APPENDIX A: RELATED OFFICE OF INSPECTOR GENERAL REPORTS

Report Title	Report Number	Date Issued
Georgia Did Not Always Accurately Report and Refund the Federal Share of Medicaid Collections for Calendar Years 2008 Through 2011	A-04-12-00085	4/22/14
Delaware Did Not Comply With Federal Requirements To Report All Medicaid Overpayment Collections	A-03-11-00203	6/28/12
States Inappropriately Retained Federal Funds for Medicaid Collections for the First Recovery Act Quarter	A-06-11-00064	6/22/12
Review of Oklahoma Collections for the Medical Assistance Program for Calendar Years 2004 Through 2009	A-06-10-00057	1/5/12

APPENDIX B: AUDIT SCOPE AND METHODOLOGY

SCOPE

Our review covered Medicaid collections totaling 305,747,201 ($214,747,859 Federal share) reported on the CMS-64s for July 1, 2011, through December 31, 2012 (audit period).

We limited our review to documentation supporting the collections reported on the CMS-64s and the methodologies that the State agency used to calculate the Federal share of collections. We did not review the overall internal control structure of the State agency or the Medicaid program. Rather, we limited our internal control review to the objective of our audit.

We conducted fieldwork at the State agency offices in Columbia, South Carolina, from March 2013 through March 2014.

METHODOLOGY

To accomplish our objective, we:

- reviewed applicable Federal requirements and applicable sections of the Manual;
- interviewed State agency officials to gain an understanding of its procedures for identifying and reporting collections on the CMS-64s;
- interviewed State agency Medicaid Fraud Unit (MFU) personnel to determine whether the MFU deducted investigative expenses before sending the restitutions to the State agency for calculation of the Federal Share;
- interviewed the TPL contractor to gain an understanding of its collection efforts and how collections were reported to the State agency;
- obtained and analyzed quarterly CMS-64s for the audit period, along with supporting documentation;
- traced to supporting documentation Medicaid collections totaling $305,747,201 ($214,747,859 Federal share) reported for our audit period on the CMS-64s;
- calculated, using the FMAP in effect at the time of each payment, the Federal share for selected Program Integrity and Third Party Liability recoveries; and
- summarized our findings 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 that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

APPENDIX C: FEDERAL REQUIREMENTS

FEDERAL REQUIREMENTS FOR REPORTING AND REFUNDING MEDICAID COLLECTIONS

CMS reimburses each State at the FMAP for the quarter in which the expenditure was made (section 1903(a)(1) of the Act). According to section 2500.1(B) of the Manual, the State agency must report an overpayment or other collection on the CMS-64 report for the quarter in which the recovery is made and must compute the Federal share of collections at the Federal matching rate at which CMS matched the original expenditure.

When a State recovers a prior expenditure, it refunds the Federal share by reporting the recovery on the CMS-64 at the FMAP used to calculate the amount it originally had received. The Manual, section 2500.6(B), instructs States to:

> determine the date or period of the expenditure for which the refund is made to establish the FMAP at which the original expenditure was matched by the Federal government. Make refunds of the Federal share at the FMAP for which you were reimbursed. When recoveries cannot be related to a specific period, compute the Federal share at the FMAP rate in effect at the time the refund was received.

Log # 381

SOUTH CAROLINA
Healthy Connections
MEDICAID

Nikki Haley GOVERNOR
Anthony Keck DIRECTOR
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June 11, 2014

Lori S. Pilcher
Regional Inspector General for Audit Services
US Department of Health & Human Services
Office of Audit Services, Region IV
61 Forsyth Street, SW Suite 3T41
Atlanta, Ga 30303

Re: A-04-13-00092

Dear Ms. Pilcher;

The South Carolina Department of Health & Human Services (SCDHHS) has reviewed the audit findings identified in the draft OIG report entitled: *South Carolina Did Not Always Accurately Report and Refund the Federal Share of Medicaid Collections for July 1, 2011 through December 31, 2012.* We offer the following response for your consideration.

Recommendation:

- Refund $444,806 to the Federal Government
- Develop and implement internal controls to ensure that it (SCDHHS) uses specific-period FMAP to calculate the Federal Share of TPL and PI collections to be refunded.

Response:

SCDHHS concurs with the finding and agrees to refund the $444,806 back to the federal Government prior to September 30, 2014 via a corresponding entry on the CMS 64 Medicaid Expenditure Report. SCDHHS has begun development of internal control measures to calculate recoveries in accordance with CMS regulations 2500.1(B) of the State Medicaid Manual. This systematic functionality is currently in test and is expected to be operational in FFY 2015.

Sincerely,

Anthony E. Keck
Agency Director