

DEPARTMENT OF HEALTH AND HUMAN SERVICES
OFFICE OF DIRECTOR

ACTION REFERRAL

TO <i>Diggitt</i>	DATE <i>1-27-15</i>
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DIRECTOR'S USE ONLY	ACTION REQUESTED
1. LOG NUMBER <i>000172</i>	<input type="checkbox"/> Prepare reply for the Director's signature DATE DUE _____
2. DATE SIGNED BY DIRECTOR <i>cc: Day, Roberts, Host Cleared 2/20/15, letter attached.</i>	<input checked="" type="checkbox"/> Prepare reply for appropriate signature DATE DUE <i>2-17-15</i>
	<input type="checkbox"/> FOIA DATE DUE _____
	<input type="checkbox"/> Necessary Action

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

January 22, 2015

Report Number: A-04-14-04019

Mr. Christian Soura
Interim Director
South Carolina Department of Health and Human Services
P.O. Box 8206
Columbia, SC 29202-8206

Dear Mr. Soura:

Enclosed is the U.S. Department of Health and Human Services, Office of Inspector General (OIG), draft report entitled *South Carolina Claimed Some Unallowable Room-and-Board Costs Under the Intellectual and Related Disabilities Waiver for State Fiscal Year 2010*. 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 8M 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 <http://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.

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c: Day

Roberts

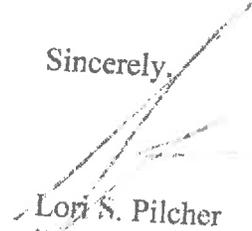
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orig. to Pete

Page 2 – Mr. Christian Soura

If you have any questions or comments about this report, please do not hesitate to call me, or contact Mark Wimple, Audit Manager, at (919) 790-2765, extension 24, or through email at Mark.Wimple@oig.hhs.gov. Please refer to report number A-04-14-04019 in all correspondence.

Sincerely,



Lori S. Pilcher
Regional Inspector General
for Audit Services

Enclosure

Department of Health and Human Services

OFFICE OF
INSPECTOR GENERAL

DRAFT
SOUTH CAROLINA CLAIMED
SOME UNALLOWABLE ROOM-
AND-BOARD COSTS UNDER THE
INTELLECTUAL AND RELATED
DISABILITIES WAIVER FOR
STATE FISCAL YEAR 2010

NOTICE – THIS DRAFT RESTRICTED TO OFFICIAL USE

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Gloria L. Jarmon
Deputy Inspector General
for Audit Services

January 2015
A-04-14-04019

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:

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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

The South Carolina Department of Health and Human Services claimed Federal Medicaid reimbursement of \$1.6 million during State fiscal year 2010 for unallowable room-and-board costs under the Intellectual and Related Disabilities waiver program and did not reduce its Federal reimbursement by \$7.9 million for an overpayment settlement.

WHY WE DID THIS REVIEW

In a previous audit of the South Carolina Department of Health and Human Services (State agency) for State fiscal years (SFYs) 2007 through 2009, we reported that the State agency claimed Medicaid reimbursement of approximately \$6.7 million (\$4.8 million Federal share) in direct room-and-board expenses and related administrative and general costs. Such expenses are not eligible for reimbursement. We performed this audit of SFY 2010 to determine whether the issue we identified for SFYs 2007 through 2009 continued to exist.

The objective of this review was to determine whether the State agency claimed Medicaid reimbursement for unallowable room-and-board costs under the Intellectual and Related Disabilities (IRD) waiver program operated by the South Carolina Department of Disabilities and Special Needs (the Department) for SFY 2010.

BACKGROUND**Intellectual and Related Disabilities Waiver Services**

Under a Title XIX section 1915(c) waiver approved by the Centers for Medicare & Medicaid Services (CMS), the State agency operates an IRD waiver program that provides long-term care and support for individuals with intellectual or related disabilities. Payments are allowable for the cost (other than room-and-board) of home or community-based services that are provided under a written plan of care to individuals in need of the services. The State agency provides administrative oversight and monitoring of the IRD waiver program but contracts with the Department to provide IRD waiver services. The Department provides these IRD waiver services through contractual arrangements with a network of 39 local Disabilities and Special Needs (DSN) boards.

Reimbursement Methodology

Throughout the year, the Department makes prospective "band" payments to the local DSN boards. The local DSN boards submit monthly service reports to the Department that reflect actual services provided to clients during the month.

On the basis of monthly service reports that the DSN boards submit, the Department submits claims to the State agency for payment. The payment of these claims, subject to settlement based on the Department's annual cost reports, is the basis for the expenditure of Federal funds for IRD waiver program services. The State agency submits quarterly reports to CMS covering IRD waiver program expenditures, including any settlement payments, on the Quarterly

Medicaid Statement of Expenditures for the Medical Assistance Program, Form CMS-64 (CMS-64), which summarizes actual Medicaid expenses for each quarter.

CMS reimburses to the State agency the Federal share of the State agency's claimed costs. From July 1, 2009, through June 30, 2010, the State agency claimed costs for the IRD waiver program totaling \$216,370,314. Under the contract between the Department and the State agency, the Department was responsible for all unallowable costs.

Cost Reporting Process

Each of the 39 local DSN boards submits to the Department annual cost reports for each of its various service areas.

Annually, the Department submits a consolidated IRD waiver program cost report to the State agency, which includes the IRD waiver program costs of all of the local DSN boards combined, as well as the administrative and general costs that are allocable to the IRD waiver program. Each year, the State agency compares the costs included on the annual consolidated IRD waiver program cost report to previous payments made to the Department for IRD waiver program services for the fiscal year and settles with the Department for the difference.

WHAT WE FOUND

The State agency claimed Medicaid reimbursement of \$2,011,222 (\$1,599,525 Federal share) for unallowable room-and-board costs under the IRD waiver program that the Department operated. The unallowable costs were:

- \$717,329 (\$570,492 Federal share) of direct room-and-board costs and
- \$1,293,893 (\$1,029,033 Federal share) of administrative and general costs related to room and board.

In addition, the State agency did not reduce its reimbursement on its CMS-64 for a \$9,962,995 (\$7,923,570 Federal share) overpayment settlement for SFY 2010, which the Department identified in July 2010.

The State agency claimed unallowable room-and-board costs because neither the State agency nor the Department had adequate controls to (1) ensure that the Department followed either applicable Federal law and guidance or its own guidance or (2) detect errors or misstatements on the local DSN boards' cost reports (e.g., prescribe a uniform format for the local DSN boards to follow when preparing the cost reports).

The State agency did not reduce its reimbursement on its CMS-64 because it did not have controls in place to ensure that it refunded the Federal share of all overpayments on its CMS-64 within the required time after it was notified of overpayments.

WHAT WE RECOMMEND

We recommend that the State agency:

- refund to the Federal Government \$1,599,525, which is the Federal share of the room-and-board costs that the Department improperly claimed on its IRD waiver costs reports;
- ensure that it removes room-and-board-related administrative costs from the cost reports in accordance with Federal regulations;
- implement the use of a uniform cost reporting process;
- strengthen the Department's and the State agency's cost report review processes to detect errors and to ensure compliance with Federal regulations;
- report as a credit on the CMS-64 the overpayment of \$9,962,995 (\$7,923,570 Federal share) that the Department identified in July 2010; and
- develop and implement controls to ensure that, after being notified of an overpayment, it reports the overpayment as a credit on the CMS-64 in a timely manner.

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INTRODUCTION

WHY WE DID THIS REVIEW

In a previous audit of the South Carolina Department of Health and Human Services (State agency) for State fiscal years¹ (SFYs) 2007 through 2009, we reported that the State agency claimed Medicaid reimbursement of approximately \$6.7 million (\$4.8 million Federal share) in direct room-and-board expenses and related administrative and general costs.² Such expenses are not eligible for reimbursement. We performed this audit of SFY 2010 to determine whether the issue we identified for SFYs 2007 through 2009 continued to exist.

OBJECTIVE

Our objective was to determine whether the State agency claimed Medicaid reimbursement for unallowable room-and-board costs under the Intellectual and Related Disabilities (IRD) waiver program operated by the South Carolina Department of Disabilities and Special Needs (the Department) for SFY 2010.

BACKGROUND

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 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.

Intellectual and Related Disabilities Waiver Services

Under a Title XIX section 1915(c) waiver approved by CMS, the State agency operates an IRD waiver program that provides long-term care and support for individuals with intellectual or related disabilities. Section 1915(c) allows for payment of the cost of home or community-based services that are provided under a written plan of care to individuals in need of the services. Costs that are not related to the provision of this care, as well as room-and-board costs, are not allowable under such a waiver. The State agency provides administrative oversight and monitoring of the IRD waiver program but contracts with the Department to provide IRD waiver services. The Department provides these IRD waiver services through contractual arrangements with a network of 39 local Disabilities and Special Needs (DSN) boards. These local DSN boards are divided into four regions: Piedmont, Pee Dee, Coastal, and Midlands.

¹ The State fiscal year begins on July 1 and ends on June 30.

² See report number A-04-11-04012. Also see Appendix A for a list of other related Office of Inspector General reports.

Reimbursement Methodology

Throughout the year, the Department makes prospective “band”³ payments to the local DSN boards. The band payments are advance payments for IRD waiver services based on the number of clients within each band at a particular local DSN board. The local DSN boards submit monthly service reports to the Department that reflect actual services provided to clients during the month. There is no provision for the Department to reimburse a local DSN board’s costs that exceed its band payments. However, if a local DSN board spends less than 98 percent of its band payments in a contract period, it must refund the excess payments to the Department.

On the basis of the monthly service reports from the local DSN boards, the Department submits claims to the State agency for payment. The payment of these claims, subject to settlement based on the Department’s annual cost reports,⁴ is the basis for the expenditure of Federal funds for IRD waiver program services. The State agency submits quarterly reports covering IRD waiver program expenditures, including any settlement payments, on the Quarterly Medicaid Statement of Expenditures for the Medical Assistance Program, Form CMS-64 (CMS-64), which summarizes actual Medicaid expenses for each quarter. CMS uses information on the CMS-64 to reimburse States for the Federal share of Medicaid expenditures.

CMS reimburses to the State agency the Federal share of the State agency’s claimed costs, using the Federal medical assistance percentage (FMAP). South Carolina’s FMAP for the period was approximately 79.53 percent.⁵ Under the contract between the Department and the State agency, the Department was responsible for the cost of any unallowable services provided under the IRD waiver.

Cost Reporting Process

Each of the 39 local DSN boards submits to the Department annual cost reports for each of its various service areas. These cost reports include both direct costs for the various service areas and administrative and general costs that each local DSN board allocates.

Annually, the Department submits a consolidated IRD waiver program cost report to the State agency. It includes the IRD waiver program costs of all of the local DSN boards combined, as well as the Department central and regional offices’ administrative and general costs that are allocable to the IRD waiver program. Each year, the State agency compares the costs included on the annual consolidated IRD waiver program cost report to previous payments made to the

³ The band payment system is a budgeting system that assigns nine different funding levels, known as bands, to service users on the basis of their needs. The amount of funding assigned to each band depends on the level of residential care and intensity of services that the clients in each band are expected to need.

⁴ The State agency compares the Department’s actual costs incurred to previous band payments that the State agency has paid to the Department. This comparison results in a settlement payment due to or from the State agency.

⁵ This percentage is a weighted average of FMAPs during our audit period. See Appendix B for details of our methodology.

Department for IRD waiver program services for the fiscal year and settles with the Department for the difference.

HOW WE CONDUCTED THIS REVIEW

Our audit covered the period July 1, 2009, through June 30, 2010, which was SFY 2010. For this period, the State agency claimed costs for the IRD waiver program totaling \$216,370,314. We calculated the direct room-and-board costs that the local DSN boards claimed on their cost reports. Additionally, we calculated the portion of administrative and general costs attributable to room and board.

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.

See Appendix B for the details of our scope and methodology and Appendix C for applicable Federal and State requirements.

FINDINGS

The State agency claimed Medicaid reimbursement of \$2,011,222 (\$1,599,525 Federal share) for unallowable room-and-board costs under the IRD waiver program that the Department operated. The unallowable costs were:

- \$717,329 (\$570,492 Federal share) of direct room-and-board costs and
- \$1,293,893 (\$1,029,033 Federal share) of administrative and general costs related to room and board.

In addition, the State agency did not reduce its reimbursement on its CMS-64 for a \$9,962,995 (\$7,923,570 Federal share) overpayment settlement for SFY 2010.

The State agency claimed unallowable room-and-board costs because neither the State agency nor the Department had adequate controls to (1) ensure that the Department followed either applicable Federal law and guidance or its own guidance or (2) detect errors or misstatements on the local DSN boards' cost reports.

The State agency did not reduce its reimbursement on its CMS-64 because it did not have controls in place to ensure that it refunded the Federal share of all overpayments on its CMS-64 within the required time after it was notified of overpayments.

THE STATE AGENCY CLAIMED MEDICAID REIMBURSEMENT FOR DIRECT ROOM-AND-BOARD COSTS

Under a Title XIX section 1915(c) waiver, payments are allowable for the cost of home or community-based services that are provided under a written plan of care to individuals in need of services. However, costs that are not related to the provision of this care, as well as room-and-board costs, are not allowable (Social Security Act (the Act), § 1915 (c)(1)).

The State agency claimed Medicaid reimbursement totaling \$717,329 (\$570,492 Federal share) for unallowable direct room-and-board costs that were incurred at the local DSN board level.

Some local DSN boards included maintenance costs related to residential service programs (a direct room-and-board cost) in a pool of costs to be allocated to the various residential locations rather than directly assigning those costs to the specific residential program locations. Generally, the local DSN boards properly made adjustments to remove these costs from the cost reports. However, 13 of the 39 local DSN boards did not remove the allocated maintenance costs. As a result, the Department improperly claimed for reimbursement \$717,329 (\$570,492 Federal share) for direct room-and-board costs. (See Appendix D for a list of direct room-and-board costs claimed by the 13 local DSN boards.)

THE STATE AGENCY CLAIMED MEDICAID REIMBURSEMENT FOR ADMINISTRATIVE AND GENERAL ROOM-AND-BOARD COSTS

Under a Title XIX section 1915(c) waiver, payments are allowable for the cost of home or community-based services that are provided under a written plan of care to individuals in need of services. However, costs that are not related to the provision of this care or to room-and-board costs are not allowable (the Act, § 1915(c)(1)).

Federal regulations (42 CFR § 441.310(a)(2)) state that Federal financial participation (FFP) “for home and community-based services is not available for the cost of room and board except when (1) provided as part of respite care services in a facility approved by the State that is not a private residence; (2) a portion of rent and food is attributable to an unrelated personal caregiver who resides in the same household with a waiver recipient; or (3) meals are provided as part of a program of adult day health services as long as the meals do not constitute a full nutritional regimen.”

The *State Medicaid Manual* (CMS Pub. 45) states that room includes “related administrative services” (§ 4442.3 B.12). A Department guidance document, *Calculation of Room and Board for Non-ICF/ID Programs*, which was directed to all local DSN boards and contractors that provide residential services, referenced that section of the *State Medicaid Manual* to provide instructions for removal of room-and-board costs from allowable costs.

The State agency claimed Medicaid reimbursement totaling \$1,293,893 (\$1,029,033 Federal share) for unallowable administrative and general costs related to room and board that the local DSN boards had allocated to residential service programs. Of the \$10,721,832 in administrative and general costs that the local DSN boards allocated to the residential service programs,

\$1,293,893, or 12.07 percent, was related to room and board and therefore not allowable for reimbursement. (See Appendix E for our estimate of indirect room-and-board costs that each local DSN board claimed.)

Most local DSN boards removed the unallowable direct room-and-board costs from allowable costs, but did not remove unallowable indirect costs associated with the direct room-and-board costs. To determine the unallowable indirect costs for each local DSN board residential service program, we divided the total direct room-and-board costs by the total direct costs and multiplied the result by the administrative and general costs that the local DSN board allocated to the residential service program.

THE STATE AGENCY DID NOT INCLUDE AN OVERPAYMENT SETTLEMENT AS A CREDIT ON ITS CMS-64

The State has 1 year from the date of discovery to recover or attempt to recover overpayments made by a State to a person or other entity (the Act, §1903(d)(2)(C) and 42 CFR § 433.316(a)). Regardless of whether recovery was made, the State must make an adjustment to its Federal payments at the end of the 1-year period.

Other than fraud and abuse situations, an overpayment is considered discovered on the earliest of (1) the date on which any Medicaid agency official or other State official first notifies a provider in writing of an overpayment and specifies a dollar amount that is subject to recovery or (2) the date on which a provider initially acknowledges a specific overpaid amount in writing to the Medicaid agency (42 CFR § 433.316(c)(2)).

The State agency must refund the Federal share of overpayments that are subject to recovery to CMS through a credit on its CMS-64 submitted for the quarter in which the 1-year period following discovery ends. The State must report a credit on the CMS-64 whether or not the State has recovered the overpayment from the provider (42 CFR § 433.320(a)).

The State agency did not reduce its reimbursement on its CMS-64 for a \$9,962,995 (\$7,923,570 Federal share) overpayment settlement that the Department reported for SFY 2010. The Department identified this estimated overpayment in a July 9, 2010, letter to the State agency. In South Carolina, the Department is the provider of IRD waiver services, and, therefore, July 9, 2010, meets the CFR § 433.316(c)(2) definition as “the date on which a provider initially acknowledges a specific overpaid amount in writing to the State Medicaid agency.”

The 1-year period following discovery of the overpayment ended on July 9, 2011. Thus, the State agency was obligated to report the overpayment as a credit on its CMS-64 no later than for the quarter ended September 30, 2011.

INADEQUATE CONTROLS

The State agency claimed unallowable room-and-board costs because neither the State agency nor the Department had adequate controls to (1) ensure that the Department followed applicable

Federal law and guidance or the Department's own guidance or (2) detect errors or misstatements on the local DSN board cost reports. Specifically:

- The Department did not follow the Federal guidance in the *State Medicaid Manual* that it cited in its instructions to residential providers regarding the calculation of room-and-board costs.
- The Department did not prescribe a uniform format for the local DSN boards to follow when preparing the cost reports. Because each local DSN board prepared its own cost report in its own format, it was difficult for the Department to identify when direct room-and-board costs were included in a pool of costs to be allocated by a local DSN board. While most local DSN boards removed direct room-and-board costs, neither the State agency's nor the Department's controls were sufficient to prevent room-and-board costs from being claimed for reimbursement.

In its comments on our previous audit report, the State agency indicated that, beginning July 1, 2012, it would ensure that room-and-board-related administrative and general costs were removed from the cost reports and begin using uniform cost reports. It also indicated that the Department would strengthen its cost report review process to detect errors or misstatements on the local boards' cost reports and that the State agency would also strengthen its cost report review process. However, because these proposed changes were not in effect until after our audit period, we did not test to determine whether the State agency and the Department had properly implemented them.

The State agency did not reduce its reimbursement on its CMS-64 because it did not have controls in place to ensure that it refunded the Federal share of all overpayments on its CMS-64 within the required time after it was notified of overpayments.

RECOMMENDATIONS

We recommend that the State agency:

- refund to the Federal Government \$1,599,525, which is the Federal share of the room-and-board costs that the Department improperly claimed on its IRD waiver costs reports;
- ensure that it removes room-and-board related administrative costs from the cost reports in accordance with Federal regulations;
- implement the use of a uniform cost reporting process;
- strengthen the Department's and the State agency's cost report review processes to detect errors and to ensure compliance with Federal regulations;
- report as a credit on the CMS-64 the overpayment of \$9,962,995 (\$7,923,570 Federal share) that the Department identified in July 2010; and

- develop and implement controls to ensure, after being notified of an overpayment, it reports the overpayment as a credit on the CMS-64 in a timely manner.

APPENDIX A: RELATED OFFICE OF INSPECTOR GENERAL REPORTS

Report Title	Report Number	Date Issued
<i>New York Claimed Unallowable Room-and-Board Costs Under Its Developmental Disabilities Waiver Program</i>	A-02-12-01031	5/6/2014
<i>Maryland Claimed Costs for Unallowable Room and Board and Other Residential Habilitation Costs Under Its Community Pathways Waiver Program</i>	A-03-12-00203	9/9/2013
<i>South Carolina Claimed Some Unallowable Room-and-Board Costs Under the Intellectual and Related Disabilities Waiver</i>	A-04-11-04012	9/12/2012

APPENDIX B: AUDIT SCOPE AND METHODOLOGY

SCOPE

Our audit covered the period July 1, 2009, through June 30, 2010, which was South Carolina's SFY 2010. For this period, the State agency claimed costs for the IRD waiver program totaling \$216,370,314.

In planning and performing our audit, we limited our review of the State agency's and the Department's internal controls to those controls related to ensuring that room-and-board costs were not claimed for Federal reimbursement.

We conducted fieldwork at the State agency's office in Columbia, South Carolina, from October 2013 through June 2014.

METHODOLOGY

To accomplish our objective, we:

- reviewed applicable laws and regulations;
- identified direct room-and-board costs that the Department claimed on its consolidated IRD waiver program cost reports;
- determined the ratio of unallowable direct room-and-board costs to total direct costs (room-and-board ratio) for each local DSN board's residential service programs;
- determined the room-and-board portion of administrative and general costs for each local DSN board by applying the room-and-board ratio for each residential service program to the local DSN board administrative and general costs that were allocated to the residential service program;
- excluded from our calculations of unallowable costs all costs related to respite care, personal caregivers, or meals associated with adult day health services that the Department separately identifies on the waiver cost report or supporting schedules;
- reviewed the CMS-64s to verify that the State agency included the IRD waiver program claims payments on its CMS-64 and therefore claimed them for Federal reimbursement;
- reviewed the CMS-64s to determine whether the State agency included credits for any SFY 2010 overpayment settlements;

- determined the Federal share of the unallowable costs by applying the weighted average FMAP for the audit period;⁶ and
- discussed the results of our review with State agency officials.

We conducted our review 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.

⁶ The overpayments related to costs that the Department incurred throughout the course of the entire SFY. However, we could not determine the quarter in which the costs claimed occurred. Therefore, it was appropriate to use a weighted average FMAP for the entire SFY. The FMAP was 79.36 percent for the first three months of the SFY and 79.58 percent for the last nine months of the SFY.

APPENDIX C: FEDERAL AND STATE REQUIREMENTS

Social Security Act

Section 1915 (c)(1) of the Act allows for payment of the cost of a home or community-based services (other than room and board) that are provided under a written plan of care to individuals in need of services. Costs that are not related to the provision of this care, as well as room-and-board costs, are not allowable under such a waiver.

Section 1903(d)(2)(C) of the Act states that “when an overpayment is discovered, which was made by a State to a person or other entity, the State shall have a period of 1 year in which to recover or attempt to recover such overpayment.... [T]he adjustment in the Federal payment shall be made at the end of the 1-year period whether or not recovery was made.”

Federal Regulations

Section 433.316(a) of 42 CFR states: “The date on which an overpayment is discovered is the beginning date of the 1-year period allowed a State to recover or seek to recover an overpayment before a refund of the Federal share of an overpayment must be made to CMS.”

Section 433.316(c)(2) of 42 CFR states:

An overpayment resulting from a situation other than fraud and abuse is discovered on the earliest of –

- 1) The date on which any Medicaid agency official or other State official first notifies a provider in writing of an overpayment and specifies a dollar amount that is subject to recovery;
- 2) The date on which a provider initially acknowledges a specific overpaid amount in writing to the Medicaid agency;

Section 433.320(a) of 42 CFR states:

- (1) The agency must refund the Federal share of overpayments that are subject to recovery to CMS through a credit on its Quarterly Statement of Expenditures (Form CMS-64).
- (2) The Federal share of overpayments subject to recovery must be credited on the CMS-64 submitted for the quarter in which the 1-year period following discovery, established in accordance with § 433.316, ends.
- (3) A credit on the Form CMS-64 must be made whether or not the overpayment has been recovered by the State from the provider.

Section 441.310(a)(2)) of 42 CFR states that FFP for home and community-based services is not available for the cost of room and board except when (1) provided as part of respite care services

in a facility approved by the State that is not a private residence; (2) a portion of rent and food is attributable to an unrelated personal caregiver who resides in the same household with a waiver recipient; or (3) meals are provided as part of a program of adult day health services as long as the meals do not constitute a full nutritional regimen.

State Medicaid Manual

The *State Medicaid Manual* in defining services states that room includes “related administrative services” (§ 4442.3 B.12). A Department guidance document, *Calculation of Room-and-Board for Non-ICF/ID Programs*, which was directed to all local DSN boards and contracted residential service providers, referred to this section of the *State Medicaid Manual* to provide instructions for removal of room-and-board costs from allowable costs.

**APPENDIX D: DIRECT ROOM-AND-BOARD COSTS
CLAIMED FOR REIMBURSEMENT
FOR STATE FISCAL YEAR 2010**

Local Board⁷	Total Claimed
Aiken	\$41,625
Allendale-Barnwell	8,844
Anderson	35,487
Charles Lea	291,584
Chesco	146,942
Chester-Lancaster	21,739
Colleton	2,059
Dorchester	7,851
Fairfield	36,262
Horry	24,814
Marion-Dillon	51,152
Marlboro	10,191
Pickens	38,779
Total	\$717,329
Federal Share Percentage ⁸	79.53%
Federal Share	\$570,492

⁷ South Carolina has 39 local DSN boards. However, we have listed only those that claimed direct room-and-board costs during our audit period.

⁸ The Federal share percentage is a weighted average for the SFY.

**APPENDIX E: ESTIMATE OF INDIRECT ROOM-AND-BOARD COSTS CLAIMED
FOR REIMBURSEMENT FOR STATE FISCAL YEAR 2010**

Local Board	Total Claimed
Aiken	\$10,974
Allendale-Barnwell	27,812
Anderson	37,931
Babcock	131,135
Bamberg	43,785
Beaufort	19,798
Berkeley	37,258
Burton	42,830
Calhoun	21,568
Charles Lea	108,553
Charleston	44,191
Cherokee	12,286
Chesco	53,482
Chester-Lancaster	23,564
Clarendon	52,222
Colleton	13,597
Darlington	18,524
Dorchester	11,047
Fairfield	33,756
Florence	51,103
Georgetown	28,674
Greenville	36,450
Hampton	17,541
Horry	36,001
Jasper	18,716
Kershaw	10,478
Laurens	19,999
Lee	24,885
Marion-Dillon	35,067
Marlboro	11,443
Newberry	26,554
Oconee	40,401
Orangeburg	38,404
Pickens	35,285
Richland-Lexington ⁹	0
Sumter	23,006
Union	14,084
Williamsburg	9,317
York	72,172
Total	\$1,293,893
Federal Share Percentage ¹⁰	79.53%
Federal Share	\$1,029,033

⁹ Richland-Lexington had no direct room-and-board costs, so we calculated no indirect room-and-board costs.

¹⁰ The Federal share percentage is a weighted average for the SFY.

#172 ✓

February 20, 2015

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-04-14-04019

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 Claimed Some Unallowable Room-and-Board Costs Under the Intellectual and Related Disabilities Waiver for State Fiscal Year 2010*. We offer the following response for your consideration.

OIG Recommendations:

- Refund the Federal Government \$1,599,525 representing the federal share of the room-and-board costs that the South Carolina Department of Disabilities and Special Needs (SCDDSN) improperly claimed on its IRD waiver cost report;
- Ensure that South Carolina removes room-and-board related administrative costs from its cost reports in accordance with Federal regulations;
- Implement the use of a uniform cost reporting process;
- Strengthen SCDDSN's and SCDHHS' cost report review processes to detect errors and to ensure compliance with Federal regulation;
- Report as a credit on the CMS 64 the overpayment of \$9,962,995 (\$7,923,570 Federal share) that SCDDSN identified in July 2010; and
- Develop and implement controls to ensure that, after being notified of an overpayment, it reports the overpayment as a credit on the CMS 64 in a timely manner.

South Carolina Response:

SCDHHS concurs with the finding(s) and agrees to refund \$1,599,525 to the Federal Government and report the overpayment of \$9,962,995 (\$7,923,570 Federal Share) identified in July 2010 via a corresponding entry on the CMS 64 Medicaid Expenditure Report prior to June 30, 2015.

In regard to ensuring the removal of room-and-board costs from cost reports, the enforcement of uniform cost reporting processes, and strengthening cost report review procedures; SCDHHS, in conjunction with SCDDSN, is in agreement that the local DDSN Board and SCDDSN Central Office administrative and general costs will be allocated to direct room and board costs beginning with the July 1, 2011 through June 30, 2012 reporting period via the step-down cost allocation process in accordance with federal regulations. Additionally, SCDHHS and SCDDSN will ensure that such costs will be removed from the state fiscal year June 30, 2011 cost report for consideration of any retrospective cost settlement calculations. SCDHHS will continue to strengthen its review and approval process in relation to any changes to the SCDDSN uniform cost reporting process beginning with the July 1, 2011 cost reporting period to include the prescribed uniform cost report instructions, detailed cost reporting format, and any future policy guidance as it pertains to the reporting of allowable Medicaid reimbursable costs for waiver cost report purposes. This effort should increase our ability to detect errors for compliance with Federal regulations.

SCDHHS has also increased its control measures to ensure all overpayments are correctly identified and will be reported on the appropriate CMS 64 Expenditures Report for the quarter in which the overpayment was received.

Sincerely,



Christian L. Soura
Interim Director

Log # 172



Nikki Haley GOVERNOR
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February 20, 2015

Lori S. Pilcher
Regional Inspector General for Audit Services
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