

Department of Health and Human Services

OFFICE OF INSPECTOR GENERAL

JUNE 2004 A-04-02-06002

BACKGROUND

Section 1905 of Title XIX of the Social Security Act (the Act) states that Federal financial participation (FFP) is not available for services provided to inmates except when the inmate is not in a prison setting and becomes an inpatient in a medical institution.

FINDINGS

Outpatient Services: Improper Medicaid Payments

The four States made improper Medicaid payments for outpatient services provided to incarcerated beneficiaries. We reviewed 100 claims from each State and found that Medicaid paid:

- seven improper claims in Florida
- three improper claims in Massachusetts
- two improper claims in Missouri
- three improper claims in North Carolina

Inpatient Services: Cost Savings if Medicaid Payments Were Not Allowed

Medicaid payments for inpatient services for incarcerated beneficiaries who were not in a prison setting were allowable based on CMS policy. We found that Massachusetts and the Federal Government could have saved \$3,010,925 (\$1,505,462 FFP) if the Medicaid payment policy on inpatient health care services for incarcerated beneficiaries had been consistent with the policy on outpatient services. For the three other States, we did not identify a sufficient number of claims for incarcerated beneficiaries to allow us to make a reliable estimate of the potential savings.

Inpatient Services

From our universe of claims paid on behalf of incarcerated beneficiaries, we selected a stratified sample of 400 paid claims with each State representing a stratum of 100. The universe totaled \$130,862,277 and the sample totaled \$1,568,786. Table 2 shows the dollar value of the universe and sample for each State. For sample methodology, see Appendix B.

Table 2: INPATIENT SERVICES

State Universe Sample	
Florida	\$ 66,746,499 \$ 410,774
Massachusetts	18,169,765 534,071
Missouri	15,121,453 236,965
North Carolina	30,824,560
	386,976
Total	\$130,862,277 \$1,568,786

APPLICABLE LAW AND REGULATIONS

Section 1905 of the Act, implementing Federal regulations, and CMS guidance have made it clear that FFP under the Medicaid program is not available for any services provided to inmates, except when the inmate is not in a prison setting and becomes an inpatient in a medical institution.

On December 12, 1997, CMS issued a letter to all Associate Regional Administrators clarifying CMS's Medicaid coverage policy for inmates of a public institution. The guidance provides an exception to the prohibition of FFP for inmates, stating:

FFP is permitted when an individual becomes a patient in a medical institution.

This occurs when the inmate is admitted as an inpatient in a hospital, nursing facility, juvenile psychiatric facility or intermediate care facility. Accordingly, FFP is available for any Medicaid covered services provided to an 'inmate' while an inpatient in these facilities. The letter also states that FFP is not available for inmates receiving care "on premises of prison jail, detention center, or other penal setting."