STATE OF NORTH CAROLINA

PERFORMANCE AUDIT

DEPARTMENT OF CORRECTION

INMATE MEDICAID ELIGIBILITY

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OFFICE OF THE STATE AUDITOR

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STATE AUDITOR

SUMMARY

PURPOSE

This audit report evaluates whether the Department of Correction (Department) could reduce inmate health care costs by requiring hospitals and other medical service providers to bill Medicaid for eligible inmate inpatient hospital and professional services and makes recommendations so Department management can take appropriate corrective action.

RESULTS

The Department could save about $11.5 million a year by requiring hospitals and other medical service providers to bill Medicaid for eligible inmate inpatient hospital and professional services. Because the federal government reimburses the State approximately $.65 for every $1.00 spent on Medicaid, billing Medicaid for eligible inmate health care would reduce the Department's costs by transferring those costs to the federal government. The Department would also realize reduced costs because hospital and medical services for eligible inmates would be paid at Medicaid rates that are lower than the rates currently paid by the Department.

To realize these savings, the Department may need to obtain or train Medicaid eligibility specialists and establish procedures to determine Medicaid eligibility for inmates and ensure that Medicaid eligibility is not terminated when inmates return from medical institutions. Federal reimbursement is available to offset some of the administrative costs that the Department may incur.

Although not within the scope of this audit, local governments could also realize savings by requiring medical providers to bill Medicaid for eligible inmate health care. Inquiry of officials in two counties and an organization that manages inmate health care for 45 counties indicates that local governments do not bill Medicaid for any inmate health care.

RECOMMENDATIONS

The Department should require hospitals and other medical providers to bill Medicaid for eligible inmate inpatient health care costs. The Department should work with the Department of Health and Human Services, County Directors of Social Services, and local governments to establish the necessary policies and procedures.

AGENCY'S RESPONSE

The Agency's response is included in the Appendix A.

$11.5 MILLION A YEAR IN INMATE HEALTH CARE COST SAVINGS IS AVAILABLE

The Department of Correction (Department) could save about $11.5 million a year by requiring hospitals and other medical service providers to bill Medicaid for eligible inmate inpatient hospital and professional services.[1] The amount of potential savings will increase when health care reform expands Medicaid eligibility in 2014. To realize these savings, the Department will need to determine Medicaid eligibility for inmates and ensure that Medicaid eligibility is not terminated when inmates return from medical institutions. Although not within the scope of this audit, it is also possible that local governments could reduce costs by charging eligible inmate health care to Medicaid.

Bill Eligible Inmate Inpatient Health Care Costs to Medicaid

Currently, the Department does not require hospitals or other medical service providers to bill Medicaid for any inmate health care costs. The Department pays for inmate health care at rates significantly higher than Medicaid rates. A previous state audit concluded that the Department pays an average of 467% (from 198% to as high as 879%) of Medicaid rates for inmate health care costs.[2]

The Department could reduce its inmate health care costs if medical providers billed Medicaid for inpatient services provided to Medicaid-eligible inmates. Inmates could be Medicaid eligible if they meet the Medicaid eligibility requirements, which include income and resource limits, citizenship and alien status, state of residence, 20 years old or younger, 65 years old or older, pregnant, blind, or disabled. Inmates could also be Medicaid eligible if they are considered physically or mentally disabled under the federal Supplemental Security Income (SSI) program. There are nine diagnostic categories of mental disorders under SSI including personality disorders and substance addiction disorders, which may establish disability.

Generally, the federal government will not reimburse states (called federal financial participation or FFP) for inmate medical care under the Medicaid program. However, an exception is allowed "during that part of the month in which the individual is not an inmate of a public institution."[3] For purposes of FFP, guidance from the Centers from Medicare and Medicaid Services[4] (CMS) indicates that inmates lose their "inmate status" and obtain "inpatient status" when treated in an inpatient hospital setting that is not under the control of a state's correction system. Consequently, FFP is available for an inmate's health care expenses if the inmate is Medicaid eligible and he or she is an inpatient of a medical institution.

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[1] Medicaid is a health insurance program funded by a state and federal partnership for low-income parents, children, seniors, and people with disabilities. The federal government provides a federal match to state government funding by reimbursing states a percentage of their Medicaid expenditures.

[2] Office of the State Auditor. Department of Correction Fiscal Control Audit. February 2010

[3] 42 CFR 435.1008

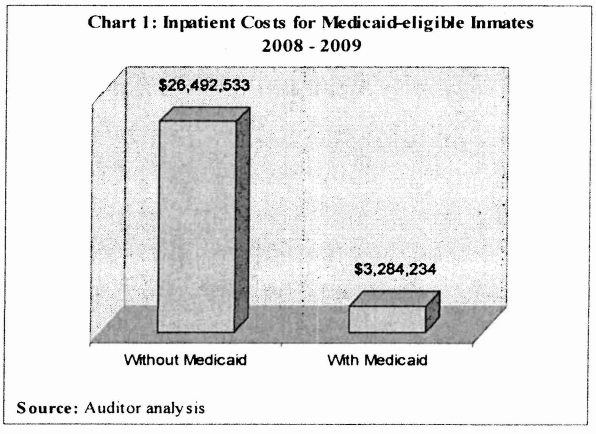
[4] CMS is part of the US Department of Health and Human Services. CMS is the federal agency that administers Medicare, Medicaid, and the Children's Health Insurance Program.

Correspondence from the CMS, formerly known as the Health Care Finance Administration (HCFA), a letter from the North Carolina Department of Health and Human Services (DHHS), and the experiences of five states confirm that FFP is available for inmate inpatient health care. Specifically:

- A May 4, 2010, CMS letter to the State Auditor says, "The North Carolina Medicaid program potentially could have been billed by enrolled Medicaid hospitals for services provided to inmates that are inpatients and are also Medicaid beneficiaries. Charges for professional services that occurred during the inpatient stays may also be billed on the Medicaid program."[5]
- HCFA letters from 1997 and 1998 state, "An exception to the prohibition of FFP is permitted when an inmate becomes a patient in a medical institution. This occurs when the inmate is admitted as an inpatient in 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 provided the services are included under a State's Medicaid plan and the 'inmate' is Medicaid eligible."[6]
- An August 27, 2008, DHHS letter to County Directors of Social Services notes that "medical services received during an inpatient hospital stay for an incarcerated recipient" who is Medicaid eligible can be charged to Medicaid.[7]
- Five states (Louisiana, Mississippi, Nebraska, Oklahoma, and Washington) report that they charge eligible inmate inpatient health care to their Medicaid programs.

Billing Medicaid for eligible inmate health care costs would reduce the Department's costs in two ways. First, the Department would realize reduced costs because hospital and medical services for eligible inmates would be reimbursed at Medicaid rates that are lower than the rates currently paid by the Department. Second, billing Medicaid for eligible inmate health care would reduce the Department's costs by transferring those costs to the federal government because the federal government reimburses the State about $.65 for every $1.00 spent on Medicaid.

For example, Chart 1 shows that the Department paid about $26.5 million in inpatient medical care for inmates who were potentially Medicaid eligible during the 2008 and 2009 calendar years. At Medicaid rates, those services would have only cost the Department about $9.2 million, a $17.3 million savings. Additionally, the federal government would have reimbursed the State about $5.9 million. As a result, total cost to the



[5] See appendix
[6] See appendix
[7] Division of Medical Assistance. DMA Administrative Letter No: 09-08, Medicaid Suspension. August 27, 2008

State would have been about $3.3 million instead of $26.5 million, a two-year savings of $23 million or $11.5 million a year.

Assuming that CMS does not change its current policy on inmate Medicaid eligibility, the Department could realize additional savings from the new health care reform law. Beginning January 1, 2014, the Patient Protection and Affordable Care Act "establishes a new eligibility category for all non-pregnant, non-Medicare eligible childless adults under age 65 who are not otherwise eligible for Medicaid and requires minimum Medicaid coverage at 133% FPL [federal poverty level]."[8] Consequently, more inmates will become Medicaid eligible in 2014. Furthermore, states will receive 100% federal reimbursement for "newly eligible individuals" during the first three years: January 2014 through December 2016.[9]

Determine Inmate Medicaid Eligibility and Prevent Eligibility Termination

The Department does not currently have procedures in place to determine if an inmate who needs inpatient medical services is Medicaid eligible. Furthermore, the Department does not have personnel assigned to determine Medicaid eligibility.

To realize the potential cost-savings described above, the Department may need to obtain or train Medicaid eligibility specialists and will need to establish procedures to determine if inmates who are sent to medical institutions for inpatient services are Medicaid eligible. Medicaid eligibility for inmates can be determined at any time before, during, or after incarceration. In a 2004 letter to State Medicaid Directors,[10] CMS said:

> As a reminder, the payment exclusion under Medicaid that relates to individuals residing in a public institution or an IMD [Institute for Mental Disease] does not affect the eligibility of an individual for the Medicaid program. Individuals who meet the requirements for eligibility for Medicaid may be enrolled in the program before, during, and after the time in which they are held involuntarily in secure custody of a public institution or as a resident of an IMD.

Additionally, the State should be able to recover 50% of administrative costs the Department incurs for staffing, training, and performing Medicaid eligibility determinations. Federal regulations state FFP is available for salaries, fringe benefits, travel, training, and necessary administrative costs incurred in determining Medicaid eligibility.[11]

Failure to timely determine Medicaid eligibility, however, can cost the Department money. For example, the Department cannot recover about $23.2 million in potential savings for calendar years 2008 and 2009. During that period, the Department paid

[8] The Henry J. Kaiser Family Foundation. Medicaid and Children's Health Insurance Program Provisions in the New Health Reform Law. April 2010

[9] Patient Protection and Affordable Care Act. Section 2001.(a)(3)

[10] Letter from CMS to State Medicaid Directors dated May 25, 2004. Subject: Ending Chronic Homelessness.

[11] 42 CFR 432.50 and 42 CFR 435.1001

inpatient health care costs for 646 inmates who were potentially eligible for Medicaid. Federal regulations allow states two years to file and recover reimbursement for Medicaid claims if the individual was Medicaid eligible at the time of service.[12] But states can only look back three months before the eligibility application was filed to obtain retroactive reimbursement for Medicaid-eligible expenses.[13] Consequently, the Department cannot recover the potential savings identified for calendar years 2008 and 2009.

After determining eligibility, the Department will also need to ensure that Medicaid eligibility is not terminated when inmates return from the hospital. CMS recommends, "Once determined eligible, the inmates remain eligible and their cases should be placed in a suspension status during their incarceration."[14]

It may also be advantageous for the Department to work with DHHS and local governments to ensure that Medicaid-eligible inmates do not have their eligibility status terminated when they are first incarcerated. In a September 2008 letter, DHHS directed County Directors of Social Services to suspend the Medicaid benefits of newly incarcerated individuals for the remainder of his or her "certification/payment review period."[15] However, the Department may want to work with the County Directors of