

OFFICE OF INSPECTOR GENERAL

TEXAS HEALTH AND HUMAN SERVICES COMMISSION

AUDIT OF RECOVERY OF OVERPAYMENTS IDENTIFIED IN FEDERAL AUDITS



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IG Report No. IG-16-110



HHSC IG

TEXAS HEALTH AND HUMAN
SERVICES COMMISSION

INSPECTOR GENERAL

February 28, 2017 | Highlights of IG Report IG-16-110

AUDIT OF RECOVERY OF OVERPAYMENTS IDENTIFIED IN FEDERAL AUDITS

WHY THE IG CONDUCTED THIS AUDIT

The U.S. Department of Health and Human Services (DHHS), Office of Inspector General, Office of Audit Services (DHHS-OIG) conducts independent audits of DHHS programs, grantees, and contractors.

HHSC IG Audit Division Federal Audit Coordination functions as the liaison between HHSC and DHHS-OIG during the course of an audit, and with the Centers for Medicare and Medicaid Services (CMS) during audit resolution. Federal Audit Coordination tracks the status of amounts to be returned and documents transactions that return overpayments to the federal government.

Processes related to the refund of the federal share of overpayment amounts identified in federal audits, but recovery and settlement processes may vary depending on the audit and the corresponding HHSC program.

The IG Audit Division reviewed nine DHHS-OIG audit reports that identified overpayment amounts totaling \$18.5 million, of which the federal share was \$17.2 million and the state share was \$1.3 million.

WHAT THE IG RECOMMENDS

As there were no reportable issues identified in this audit, the IG does not offer recommendations for improvement.

For more information, contact:
IG.AuditDivision@hhsc.state.tx.us

WHAT THE IG FOUND

HHSC returned the federal portion of funds identified in nine DHHS-OIG audit reports tested within the required timeframe, and recovered the state and federal share of final overpayments in each of seven required instances. No reportable issues were identified in this audit.

The IG Audit Division evaluated HHSC activities and processes related to the recovery of overpayments and return of federal funds for the following nine final audit reports issued by DHHS-OIG from September 1, 2009, through January 31, 2016.

- Review of Physician Supplemental Payments Made to the University of North Texas
- Acute-Care Hospitals in Texas Did Not Always Reconcile Invoice Records With Credit Balances and Refund to the State Agency the Associated Medicaid Overpayments
- Texas Made Incorrect Medicaid Electronic Health Record Incentive Payments
- Texas Claimed Unallowable Federal Reimbursement for Some Family Planning Services
- Review of Nonemergency Medical Transportation Costs in the State of Texas (Transportation Provided by the League of United Latin American Citizens – Project Amistad)
- States Inappropriately Retained Federal Funds for Medicaid Collections for the First Recovery Act Quarter
- Texas Did Not Refund Excess Contractor Profits in Accordance to Federal Regulations
- Review of Nonemergency Medical Transportation Costs in the State of Texas (Transportation Provided by Capital Area Rural Transit System)
- Most Medicaid Payments Texas Made to Providers for Full Vials of Herceptin Were Incorrect

LESSONS LEARNED

Absence of established policy, especially for activities that require coordination between organizational units, such as collection of overpayments identified by federal auditors, create the risk that roles and responsibilities are not clearly defined or fully understood, which can lead to inconsistent performance or incomplete results. To address this risk, the IG plans to draft an external audit circular, detailing audit resolution roles and responsibilities, for HHSC approval.

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INTRODUCTION

The Texas Health and Human Services Commission (HHSC) Inspector General (IG) Audit Division has completed an audit of the effectiveness of HHSC policy and processes related to the recovery of overpayments identified during federal audits. The IG Audit Division conducted this audit to review overpayment collection efforts within HHSC and explore the workflow between federal and state entities.

Objectives

The objectives of this audit were to determine whether HHSC:

- Recovered the federal and state share¹ of overpayment amounts identified in federal audits from providers and returned the federal portion within required timelines.
- Followed appropriate protocols when negotiating and agreeing to (a) recovery amounts less than the identified overpayment amounts and (b) extended repayment periods.

Background

The U.S. Department of Health and Human Services (DHHS), Office of Inspector General, Office of Audit Services (OIG) conducts independent audits of DHHS programs, grantees, and contractors. HHSC, as a recipient of federal funding through DHHS for many programs, the largest of which is the Medicaid program, is subject to audits by DHHS-OIG. HHSC contractors and providers who are paid by HHSC, using federal DHHS funds, are also subject to DHHS-OIG audits. DHHS-OIG audits examine the performance of DHHS programs, grantees, and contractors in carrying out their responsibilities, and evaluate whether DHHS funds were used as intended. These audits help reduce waste, abuse, and mismanagement and promote economy and efficiency.

DHHS-OIG audits result in audit reports that sometimes identify instances in which a DHHS program, grantee, or contractor received payments for expenditures that were unsupported, unallowable, invalid, or excessive. The DHHS-OIG audit reports recommend recovery and refund of the federal portion of questioned costs, including amounts calculated through statistical extrapolation of a sampled population. When a questioned cost involves an HHSC program, contractor, or provider, HHSC is required by federal law to return the federal share of the overpayment to the federal government, and is

¹ DHHS-OIG reports identify the overpayment amounts received and the specific federal share that must be refunded.

required by state statute² and rule to recover overpayments from the respective program, grantee, or contractor, including both the federal and state share of the overpayment.

HHSC has one year from the date of discovery³ (final report issue date) of an overpayment to return the federal share to the DHHS Centers for Medicare and Medicaid Services (CMS).⁴ To return the federal share to CMS, HHSC documents the federal share amount as a prior period adjustment on the CMS-64 State Expenditure Report, which HHSC submits quarterly to CMS. The Federal Reporting Section of HHSC Financial Services compiles and submits the CMS-64 State Expenditure Report. Whether or not HHSC recovers the full overpayment from the provider,⁵ HHSC must refund the federal share of an overpayment to CMS within one year from the date of discovery, except in instances in which HHSC has not been able to recover an overpayment because the provider has gone bankrupt or out of business.⁶

HHSC IG Audit Division Federal Audit Coordination functions as the liaison between HHSC and DHHS-OIG during the course of an audit, and with CMS during audit resolution, which is the responsibility of CMS. The IG Audit Division Federal Audit Coordination tracks the status of amounts to be returned to the federal government.

The recovery of overpayments, and any related settlement processes vary depending on the audit and the corresponding HHSC program. One of two approaches are commonly used for recovering overpayments from providers after the provider has been notified:

- The respective HHSC program submits a request to establish a receivable with the Accounts Receivable Tracking System (ARTS). ARTS establishes and tracks various receivables owed to HHSC, including provider overpayments identified by federal audits. Providers submit payments to ARTS in accordance with the terms of the established repayment agreement until the balance is paid in full.
- HHSC reduces pending and future claim payments to the provider until the cumulative total of the claim reductions is equal to the overpayment amount owed.

The scope of this audit included nine final DHHS-OIG audit reports issued by from September 1, 2009, through January 31, 2016. The scope did not include DHHS-OIG audit reports issued during this time period for which overpayments were under appeal or unresolved as of January 31, 2016.

² 1 Tex. Admin. Code § 357.621 (September 1, 2004).

³ 42 C.F.R. 433.316 (June 28, 2012).

⁴ 42 C.F.R. § 433.312(a)(1) (June 28, 2012).

⁵ 42 C.F.R. § 433.312 (June 28, 2012).

⁶ 42 C.F.R. § 433.318 (June 28, 2012).

To accomplish the audit objectives, the IG Audit Division reviewed each audit report to obtain the total overpayment amounts identified, including the corresponding federal share. When the audit report identified the federal share but there was an associated state share, the IG Audit Division also reviewed the amount of the state share, as seen in Table 1.

Table 1: DHHS-OIG Final Audit Reports

Audit Title	Audit Report Issued	Total Overpayment	Federal Share	State Share
Review of Physician Supplemental Payments Made to the University of North Texas	September 2014	\$ 1,229,407	\$ 746,461	\$ 482,946
Acute-Care Hospitals in Texas Did Not Always Reconcile Invoice Records With Credit Balances and Refund to the State Agency the Associated Medicaid Overpayments	May 2014	30,057	18,472	11,585
Texas Made Incorrect Medicaid Electronic Health Record Incentive Payments	August 2015	12,465,132	12,465,132	0
Most Medicaid Payments Texas Made to Providers for Full Vials of Herceptin Were Incorrect	June 2015	823,279	566,368	256,911
Texas Claimed Unallowable Federal Reimbursement for Some Family Planning Services ⁷	March 2015	129,028	129,028	0
States Inappropriately Retained Federal Funds for Medicaid Collections for the First Recovery Act Quarter	June 2012	148	148	0
Texas Did Not Refund Excess Contractor Profits in Accordance to Federal Regulations	August 2012	2,634,568	2,634,568	0
Review of Nonemergency Medical Transportation Costs in the State of Texas (Transportation Provided by the League of United Latin American Citizens – Project Amistad)	October 2010	262,536	131,268	131,268
Review of Nonemergency Medical Transportation Costs in the State of Texas (Transportation Provided by Capital Area Rural Transit System)	June 2010	920,622	460,311	460,311
Total		\$ 18,494,777	\$ 17,151,756	\$ 1,343,021

Source: IG Audit Division

⁷ After the final audit report was issued, HHSC identified \$8,018 in state share which was subsequently recovered.

The IG Audit Division conducted this audit in accordance with generally accepted government auditing standards issued by the Comptroller General of the United States. Unless otherwise described, any year that is referenced is the state fiscal year, which covers the period from September 1 through August 31.

RESULTS

During this audit, the IG Audit Division obtained and analyzed relevant documentation to confirm whether HHSC recovered overpayments from providers and refunded the federal share timely for the nine final audit reports within the audit scope. For the nine audits reviewed, the IG Audit Division determined that HHSC returned the full federal share timely. Table 2 shows the outcome of recoveries of overpayments identified in each of the nine audits.

Table 2: Outcome of Recoveries of Overpayments Identified in DHHS-OIG Audits

Audit Title	Full Federal Share Returned Timely	Total Overpayment Recovered	Approved Settlement Documented
Review of Physician Supplemental Payments Made to the University of North Texas	Yes	Yes	N/A
Acute-Care Hospitals in Texas Did Not Always Reconcile Invoice Records With Credit Balances and Refund to the State Agency the Associated Medicaid Overpayments	Yes	Yes	N/A
Texas Made Incorrect Medicaid Electronic Health Record Incentive Payments	Yes	Yes	N/A
Most Medicaid Payments Texas Made to Providers for Full Vials of Herceptin Were Incorrect	Yes	Yes*	N/A
Texas Claimed Unallowable Federal Reimbursement for Some Family Planning Services	Yes	Yes	N/A
States Inappropriately Retained Federal Funds for Medicaid Collections for the First Recovery Act Quarter	Yes	N/A	N/A
Texas Did Not Refund Excess Contractor Profits in Accordance to Federal Regulations	Yes	N/A	N/A
Review of Nonemergency Medical Transportation Costs in the State of Texas (Transportation Provided by the League of United Latin American Citizens – Project Amistad)	Yes	Yes	N/A

Audit Title	Full Federal Share Returned Timely	Total Overpayment Recovered	Approved Settlement Documented
Review of Nonemergency Medical Transportation Costs in the State of Texas (Transportation Provided by Capital Area Rural Transit System)	Yes	Yes	Yes*

"N/A" for Total Overpayment Recovered indicates two reports did not require HHSC recover from the providers.

Source: IG Audit Division

As indicated by asterisks in Table 2, in one report, an insignificant amount of overpayment has not been fully recovered. In the second report, a portion of the final overpayment was originally waived and was supported by an executed settlement agreement. However, documentation to support HHSC’s approval of the final settlement amount was not available. Additional details related to these minor issues were communicated to responsible HHSC management through a Management Letter.

CONCLUSION

The IG Audit Division completed an audit of HHSC policy and processes related to the recovery of overpayments identified during federal audits. The IG Audit Division conducted interviews with personnel from various HHSC business areas and an analysis of relevant documentation for each of the nine DHHS-OIG audits included in the scope of the audit.

Based on the results of its audit, the IG Audit Division concluded that:

- HHSC returned the federal portion of funds identified in the DHHS-OIG final audit reports within the required timeframe.
- HHSC recovered final overpayments agreed upon by the state from the provider in each of seven required instances.
- In two instances, the IG Audit Division identified minor issues regarding overpayments recovered and maintaining settlement documentation. These details were communicated to responsible HHSC personnel through a Management Letter.

The IG Audit Division would like to thank management and staff at HHSC and Texas Medicaid and Healthcare Partnership (TMHP) for their cooperation and assistance during this audit.

Appendix A: OBJECTIVE, SCOPE, AND METHODOLOGY

Objective

The objectives of this audit were to determine whether HHSC:

- Recovered the federal and state share of overpayment amounts identified in federal audits from providers and returned the federal portion within required timelines.
- Followed appropriate protocols when negotiating and agreeing to (a) recovery amounts less than the identified overpayment amounts and (b) extended repayment periods.

Scope

The scope of this audit included a total of nine final audit reports issued by DHHS-OIG from September 1, 2009, through January 31, 2016. The IG Audit Division excluded DHHS-OIG final audit reports from this engagement that were under appeal and unresolved as of January 31, 2016.

Methodology

To accomplish the audit objectives, the IG Audit Division identified an initial population of 12 DHHS-OIG final audit reports. Three of these audits were under appeal or unresolved as of January 31, 2016. The IG Audit Division reviewed the remaining nine DHHS-OIG final audit reports and identified the total overpayment amount, including the corresponding federal and state shares.

The IG Audit Division conducted interviews with personnel from the respective business areas associated with each audit, including IG Audit Division Federal Audit Coordination, the IG Medical Services Division, the HHSC Federal Reporting Section, ARTS, HHSC General Counsel, and interviewed staff from TMHP, the Medicaid claims administrator contractor. The IG Audit Division obtained and analyzed relevant documentation for each audit to determine whether HHSC returned the full federal share timely and recovered the total identified federal and state share of the overpayment. The IG Audit Division obtained additional documentation and support as needed to determine whether HHSC justified variances between the amount identified in the DHHS-OIG final audit report and the amount refunded and recovered for each audit.

The IG Audit Division conducted this audit in accordance with generally accepted government auditing standards issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for the issues and conclusions based on our audit

objectives. The IG Audit Division believes the evidence obtained provides a reasonable basis for our issues and conclusions based on our audit objectives.

Appendix B: REPORT TEAM AND REPORT DISTRIBUTION

Report Team

The IG staff members who contributed to this audit report include:

- Steve Sizemore, CIA, CISA, CGAP, Audit Director
- Marcus Garrett, CIA, CGAP, CRMA, Audit Manager
- Edward Maldonado, CGAP, Audit Project Manager
- Albert Alberto, Audit Project Manager
- Antoinette Brewer, Staff Auditor
- Inette Brown, Staff Auditor
- Aaron Christopher, Staff Auditor
- Ousmane Diallo, Staff Auditor
- Matthew Dominguez, Staff Auditor
- Keven Holst, Quality Assurance Reviewer
- Scott Miller, Senior Audit Operations Analyst

Report Distribution

Health and Human Services Commission

- Charles Smith, Executive Commissioner
- Cecile Erwin Young, Deputy Executive Commissioner
- Heather Griffith Peterson, Chief Operating Officer
- Kara Crawford, Chief of Staff
- Karen Ray, Chief Counsel
- Karin Hill, Director of Internal Audit

Appendix C: IG MISSION AND CONTACT INFORMATION

Inspector General Mission

The mission of the IG is to prevent, detect, and deter fraud, waste, and abuse through the audit, investigation, and inspection of federal and state taxpayer dollars used in the provision and delivery of health and human services in Texas. The senior leadership guiding the fulfillment of IG's mission and statutory responsibility includes:

- Stuart W. Bowen, Jr. Inspector General
- Sylvia Hernandez Kauffman Principal Deputy IG
- Christine Maldonado Chief of Staff and Deputy IG for Operations
- Olga Rodriguez Senior Advisor and
Director of Policy and Publications
- Roland Luna Deputy IG for Investigations
- David Griffith Deputy IG for Audit
- Quinton Arnold Deputy IG for Inspections
- Alan Scantlen Deputy IG for Data and Technology
- Deborah Weems Deputy IG for Medical Services
- Anita D'Souza Deputy IG Chief Counsel

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- Online: <https://oig.hhsc.texas.gov/report-fraud>
- Phone: 1-800-436-6184

To Contact the Inspector General

- Email: OIGCommunications@hhsc.state.tx.us
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