



STATE OF OHIO
OFFICE OF THE AUDITOR

JIM PETRO, AUDITOR OF STATE

Medicaid Program

Payments For Medicaid Services to Deceased Recipients

An Operational Review by the:

**Fraud, Waste and Abuse
Prevention Division**



STATE OF OHIO
OFFICE OF THE AUDITOR

JIM PETRO, AUDITOR OF STATE

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Ms. Jacqueline Romer-Sensky, Director
Ohio Department of Human Services
30 East Broad Street, 32nd Floor
Columbus, Ohio 43266-0423

Dear Director Romer-Sensky:

I am pleased to provide you with our report *Payments for Medicaid Services to Deceased Recipients*. The report discusses the results of a computer match between Medicaid recipient files and Vital Statistics' files maintained by the Ohio Department of Health. Our match determined that over a 5 3/4 year period, about \$82 million was paid to Medicaid providers for services to deceased recipients, of which about \$14.2 million remained outstanding as of September 30, 1999.

These types of payments have been a continuing concern of my office and yours, and I acknowledge the steps taken by the Department to deal with the problem. Our report offers additional recommendations to augment the Department's efforts. The recommendations include (1) establishing a computer link with Vital Statistics' files, or the equivalent, to periodically update Medicaid recipient files, (2) ensuring county compliance with procedures to enter death dates within 10 days once reported by nursing homes, and (3) proposing legislation that will allow the Department to develop and apply sanctions against providers who do not timely report a recipient's death, or who bill for or retain unearned reimbursements, including reimbursements for services after a recipient's date of death.

I appreciate the cooperation of your staff in completing this review. Copies of this report are being sent to the Ohio Department of Health and other interested parties. If you or your staff have any questions concerning the report or would like to discuss its contents further, please call Johnnie L. Butts Jr., Chief of our Division of Fraud, Waste and Abuse Prevention, at (614) 466-3212.

Yours truly,

JIM PETRO
Auditor of State

April 18, 2000

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ABBREVIATIONS

AOS	Auditor of State
CDHS	County Department of Human Services
ICF	Intermediate Care Facility
MMIS	Medicaid Management Information System
ODHS	Ohio Department of Human Services
ODH	Ohio Department of Health
ORC	Ohio Revised Code
SSN	Social Security Number
SURS	Surveillance and Utilization Review Section
USC	United States Code

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BACKGROUND

In December 1998, the Ohio Department of Human Services' Office of Medicaid reported that about 1.5 million Ohioans were eligible to receive Medicaid in state fiscal year 1997. During fiscal year 1999, federal and state spending for Medicaid program services in Ohio totaled \$6.9 billion.

The magnitude of fraud and abuse in the Medicaid program has not been quantified. However, in November 1999, a U.S. General Accounting Office representative testified before Congress that programs the size and structure of Medicaid are inherently vulnerable to exploitation.¹ In a previous testimony, GAO estimated that up to 10 percent of medical health care funds are lost to fraud, waste and abuse. Recently, the state of Texas, after purchasing a state-of-the-art fraud detection system, determined that 14 percent of its Medicaid expenditures resulted from fraud, waste and abuse. These estimates would suggest that out of the \$6.9 billion in fiscal year 1999 expenditures, \$690 million to \$965 million could have been lost to fraud, waste and abuse. Even if only 5 percent of Ohio's Medicaid payments were improper, annual losses to the program would have been \$345 million. For this reason, the Auditor of State's Fraud, Waste and Abuse Prevention Division directs a large portion of its effort toward reviewing various aspects of the Medicaid program.

In our 1997 report on Ohio Nursing Homes², we reported that ODHS overpaid nursing home providers \$54.5 million for services to deceased Medicaid recipients over a 2½ year period, including \$12.4 million that was still outstanding as of June 30, 1996. We recommended that ODHS (1) initiate a revision to the Ohio Administrative Code that would allow it to impose a time-frame by which long term care providers would have to notify ODHS of changes involving the status of Medicaid recipients; (2) initiate a revision to the Administrative Code that would allow ODHS to assess a non-waivable penalty for failing to report changes in recipient status within the prescribed time frame; and (3) periodically match its payment records with official death records maintained by the Ohio Department of Health to eliminate or at least minimize payments on behalf of deceased recipients.

ODHS responded to the problems raised in our report by changing the process by which nursing home providers notify both the state and County Departments of Human Services (CDHSs) when a Medicaid recipient dies. The changes included revising and standardizing reporting forms and establishing a process for submitting adjustments directly to ODHS when a recipient dies. Additionally, ODHS enacted Administrative Code Rule 5101:3-3-39 to codify the expected time lines for counties and providers to inform each other of a recipient's death. The rule requires nursing homes to report a Medicaid recipient's death to a CDHS within five working days. The CDHSs are to review the report, send back a copy of the report to the provider, and terminate the deceased recipient's eligibility within

¹ Medicaid: Federal and State Leadership Needed to Control Fraud and Abuse; Statement of Leslie G. Aronovitz before the House Subcommittee on Oversight and Investigations, Committee on Commerce; GAO/T-HEHS-00-30; November 9, 1999.

² "Ohio Nursing Homes: Policy and Procedural Changes Can Reduce Costs and Increase Provider Accountability", AOS/FWAP-98-05R, December 1997.

10 days of such notification. The provider can then send the report to the state informing the state of the recipient's date of death. The provider also has 30 days to submit adjustments to any payment.

ODHS also entered into a contractual agreement with a Third Party Liability contractor to take a number of steps to make recoveries and improvements in this area, including doing matches with Vital Statistics records.

Notwithstanding these changes, ODHS believes it could still issue a reimbursement after someone died, even if a recipient's death was reported timely, given the time frames established by the Ohio Revised Code and the Ohio Administrative Code. Under current procedures in Ohio, the Department is required to pay long term care facility providers no later than the fifteenth of the month following the month in which services are rendered (Ohio Revised Code 5111.22(A)(1)). As a remedy, ODHS sought funding in the biennial budget process to permit it to make the necessary technical changes to allow nursing home providers to bill the Department directly for services that they provide. The funding was not provided for this activity in the most recent budget cycle, but ODHS continues to work towards this outcome.

Although ODHS has made progress in implementing our recommendations, some things remain to be addressed. The process still relies on providers and/or recipients' next of kin to report the death of a Medicaid recipient. This information is reported to caseworkers in CDHSs, who then enter the information into a computerized recipient master file. The changes to the Administrative Code do not resolve the fact that CDHS caseworkers do not always enter death information into the recipient master file in a timely and accurate manner. Payments continue until this occurs. In addition, as of December 1999, Medicaid payments were not yet being matched with Department of Health death records, nor had penalties been established to sanction providers who fail to report a recipient's death. The potential for continuing overpayments prompted us to further analyze the extent that ODHS may be overpaying providers for services to deceased Medicaid recipients.

OBJECTIVES, SCOPE & METHODOLOGY

The Auditor of State's Fraud, Waste and Abuse Prevention Division reviewed Medicaid payments to determine whether providers billed and were reimbursed for services occurring after a recipient's date of death. To accomplish this objective, we matched the death dates of deceased persons with the "first date of service"³ for Ohio Medicaid recipients. Death statistics were obtained from an electronic Vital Statistics file maintained by the Ohio Department of Health. Medicaid information was drawn from paid claims history files residing in ODHS' Medicaid Management Information System (MMIS). The audit scope covered persons with dates of death from January 1, 1993 through December 31, 1998, and

³We used "first date of service" because "last date of service" does not always mean that a provider provided services on that date. This occurs because some providers (e.g. hospitals, nursing homes) may bill according to treatment periods (3 days, monthly, etc.). Therefore, to avoid overstating the problem, we based our analysis on the more conservative "first date of service."

Medicaid payments paid from January 1, 1994 through September 30, 1999. All matches were based on persons who had matching SSN's, names and dates of birth on Department of Health and MMIS files.

To help pinpoint particular trouble areas, we further analyzed the match results by

- Category of Service (to determine if overpayments were concentrated in certain categories of service);
- Providers (to determine the extent that certain providers may have accounted for a high percentage of the overpayments);
- The amount and number of overpayments outstanding as of September 30, 1999 (to determine the extent that ODHS had identified and recovered any overpayments);
- The length of time that payments continued after the recipients' date of death; and
- The time taken to recover overpayments (to determine interest losses to the government).

We also worked with staff from ODHS' Surveillance and Utilization Review Section (SURS) to validate our results and discuss potential solutions to this problem.

RESULTS

Payments Made For Services to Deceased Recipients

Our analysis of MMIS paid claims files determined that over a 5 3/4 year period, ODHS paid \$82.0 million for services to Medicaid recipients after the recipients' date of death. This involved 114,780 payments to 4,113 different providers for services ostensibly provided to 26,822 deceased recipients. As of September 30, 1999, \$14.2 million remained outstanding, i.e. had not been recovered subsequent to payment. We also determined that the median time to discover and recover an overpayment was about three months after the recipients' date of death, and the average time was just over 5 months.

Table 1 shows the number of payments and the amounts that remain unrecovered as of September 30, 1999.

Table 1: Payments for Services to Deceased Recipients

Year Paid	Payments	Net Unrecovered Payments as of 9/30/99
1994	\$13,270,313	\$2,259,362
1995	\$13,912,131	\$2,200,566
1996	\$16,453,866	\$3,700,191
1997	\$16,678,502	\$3,643,152
1998	\$15,873,248	\$4,206,889
1999(as Sept. 30)	\$5,770,409	(\$1,762,868) ^a
Total	\$81,958,469	\$14,247,291

^a Net unrecovered payments for 1999 are negative because our analysis only considered deaths through 1998. Therefore, adjustments (recoveries) for payments made in prior years were greater than payments for services to deceased recipients.

Source: MMIS paid claims from January 1, 1994 through September 30, 1999 for recipients with dates of death from January 1, 1993 through December 31, 1998.

Four Categories of Service Account for Over 90 percent of Unrecovered Payments

Table 2 shows that about 93 percent of the \$14.2 million in unrecovered payments reside in four categories of service: Skilled Nursing Facility (75 percent of the unrecovered payments), Intermediate Care Facility (7 percent), Pharmacy (6 percent), and Durable Medical Equipment (5 percent).

According to ODHS, they cannot collect some of the 1994, 1995 and 1996 overpayments at this time (estimated to be about \$6.12 million (or 75 percent) of the \$8.16 million shown for these years in Table 1) because ODHS is in the midst of a lawsuit with long term care providers around payment issues. This lawsuit, filed by the Ohio Academy of Nursing Homes, Inc., is precluding ODHS from collecting overpayments to long term care facilities for closed cases, until after resolution of the lawsuit. ODHS is working with staff from the Attorney General's office to obtain permission from the court to collect overpayments for deceased persons.

Table 2:
Unrecovered Payments by Category of Service

Category of Service	Net Unrecovered Payments	Number of Payments for Deceased Patients	Number of Recovered Payments	Number of Unrecovered Payments
01 Inpatient Hospital	\$52,169.11	39	6	33
07 Outpatient Hospital	\$44,673.09	413	20	393
11 Skilled Nursing Facility	\$10,680,434.06	49,428	22,810	26,618
13 Intermediate Care Facility (ICF) for the Mentally Retarded (public)	\$(287.44)	79	40	39
16 ICF	\$976,988.07	6,750	3,172	3,578
18 ICF for the Mentally Retarded (private)	\$59,298.88	202	94	108
20 Home Health	\$16,966.47	83	4	79
22 Physiological Lab Services	\$73.98	3	0	3
23 Independent Lab Services	\$5,070.13	233	4	229
25 Clinic Services	\$7,456.07	75	2	73
30 Pharmacy Services	\$816,194.75	36,314	201	36,113
31 Rural Health Services	\$129.45	16	0	16
32 Durable Medical Equipment	\$773,943.50	12,359	226	12,133
34 Eye Glasses	\$2,698.99	115	1	114
35 Core Services Waiver Recipients	\$648.00	3	0	3
36 Home Care Facilities Services	\$3,057.40	29	0	29
37 Ambulance Services	\$26,495.58	450	8	442
38 Ambulette Services	\$30,440.10	738	12	726
41 Mental Health Services	\$49,999.75	397	0	397
42 Mental Retard Services	\$92,915.46	773	1	772
43 Physician Services	\$112,864.59	3,038	75	2,963

Category of Service	Net Unrecovered Payments	Number of Payments for Deceased Patients	Number of Recovered Payments	Number of Unrecovered Payments
44 Ambulatory Surgical Services	\$16.98	1	0	1
45 Dental Services	\$10,228.55	287	4	283
46 Waivered Services	\$50,469.01	386	1	385
47 Optometric Services	\$2,048.52	89	1	88
48 Psychological Services	\$1,163.70	40	2	38
49 Private Duty Nursing Services	\$16,379.55	13	0	13
50 Certified Registered Nurse Anesthetist Services	\$49.89	3	0	3
55 Podiatry Services	\$2,730.22	126	1	125
57 Chiropractor Services	\$15.53	1	0	1
58 Health Maintenance Organization Services	\$180,818.03	1,056	7	1,049
65 Hospice Services	\$129,111.03	196	20	176
66 Passport Waiver 3	\$81,811.39	951	0	951
84 Ohio Dept of Alcohol & Drug Addiction	\$17,909.36	55	0	55
85 Federal Qualified Health Center	\$687.11	29	0	29
86 Nursing Home Therapies	\$1,586.39	10	1	9
Totals	\$14,247,291.25**	114,780	26,713**	88,067

****Note: About 17 percent of the overpaid dollars and 78 percent of the payments for dead recipients have not been recovered**

Source: MMIS paid claims from January 1, 1994 through September 30, 1999 for recipients with dates of death from January 1, 1993 through December 31, 1998.

A Small Number of Providers Accounted for a Disproportionate Share of the Overpayments

A small number of providers in each category of service received a large percentage of the unrecovered payments for services to deceased recipients. We found, for example, that one percent (7 out of 729) of the pharmacy providers accounted for 54 percent of the unrecovered overpayments (\$436,702 out of

\$816,197). Table 3 further analyzes the extent that a few providers accounted for a large portion of unrecovered overpayments. The data suggests that recovery efforts could be maximized by concentrating on a select number of providers.

**Table 3:
Providers With Highest Unrecovered Dollars**

Category of Service	Number of Providers	Percent of Unrecovered Payments
Skilled Nursing Facility	21 of 774 (3%)	\$3,456,090 of \$10,680,434 (32%)
Intermediate Care Facility	10 of 261 (4%)	\$563,293 of \$976,988 (58%)
Pharmacy	7 of 729 (1%)	\$436,702 of \$816,197 (54%)
Durable Medical Equip	10 of 518 (2%)	\$344,381 of \$773,944 (44%)

Source: MMIS paid claims from January 1, 1994 through September 30, 1999 for recipients with dates of death from January 1, 1993 through December 31, 1998.

Medicaid Recipient Files Lack Accurate Death Information

Subsequent analysis by ODHS' Surveillance and Utilization Review Section staff confirmed that information in the Medicaid recipient master file is not always accurate. Working with a file we provided, SURS staff determined that 9,867 (28.7 percent) of 34,330 Medicaid recipients who died during 1997, according to the Ohio Department of Health's Vital Statistics file, did not have a date of death entered on the recipient master file, i.e. meaning that providers could still bill and be reimbursed for Medicaid services. Moreover, about 4.6 percent of the 24,463 recipients who had a date of death on the recipient master file had a death date that differed from the Vital Statistics death date by more than one day.

ODHS told us that they were looking into the feasibility of routinely using the Vital Statistics file to fill in the date of death field in the recipient master file, instead of relying on county case workers to enter this information. They added, however, that matching with the current Vital Statistics file will not produce a real time, on-line system. Because of the existing process for reporting deaths, coding the data, and creating a death tape, a person's death, on average, does not show up on a Vital Statistics file that ODHS can access and match against for about six months. Therefore, said ODHS, although this matching could help ensure that all persons who have died have an accurate recipient master file within six months to a year, it cannot replace other strategies to capture and record death dates more quickly. ODHS also noted that the Department of Health is working on an electronic death certificate system, which could improve the timeliness of death information.

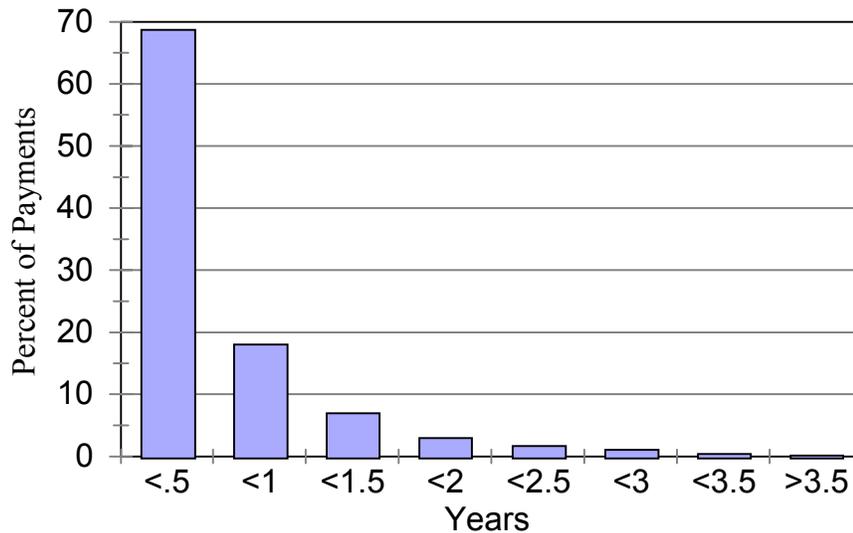
Although we acknowledge the time lag in data available from Vital Statistics' file, we still believe a match with this file, or its equivalent, is worthwhile. Such a match would have detected, for example, most of the 9,867 Medicaid recipients who died during 1997, and who were still listed on ODHS' recipient master file as of September 30, 1999.

Staff from OHDS' Surveillance and Utilization Review Section commented that inserting Vital Statistics death information in the recipient master file would affect recipient eligibility for other forms of public assistance such as Ohio Works First and Food Stamps. Payments of other forms of public assistance to deceased persons is a problem we have also reported⁴, so we concur with the approach suggested by SURS staff and encourage ODHS to pursue its implementation.

About 30 Percent of Payments Continued Six Months After Recipients' Death

While most of the payments for services to deceased recipients appear to end within 6 months of recipients' dates of death, about 30 percent continued for a longer period. In fact, about 10 percent of the payments occurred for a year and a half or more after the recipients' deaths. Figure 1 graphically displays the lengths of time that payments occurred after recipients' dates of death.

Figure 1: Payment Time After Death



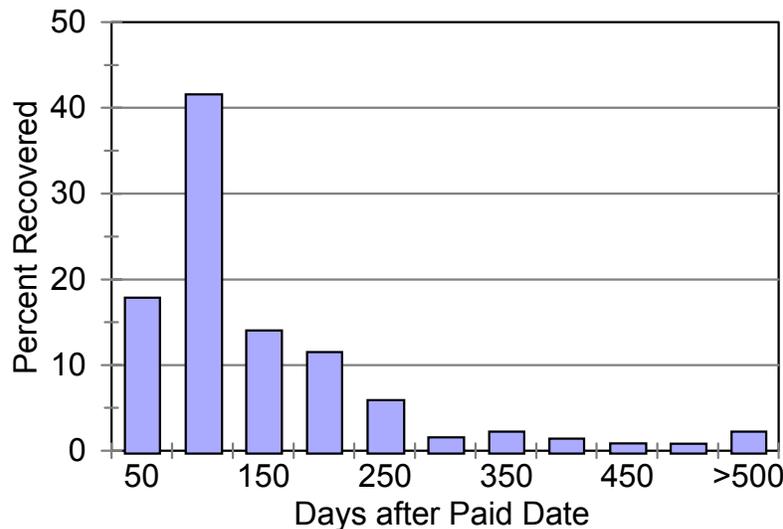
Source: MMIS paid claims from January 1, 1994 through September 30, 1999 for recipients with dates of death from January 1, 1993 through December 31, 1998.

⁴ "Preventing Welfare Fraud: Preventing Overpayments to Public Assistance Recipients Employed by the Public Section and Validating Social Security Numbers of Public Assistance Recipients", FWAP-99-002R, November 1998.

Delays in Recoveries Incur Interest Costs

To determine the length of time it took to identify and recover payments made for services to deceased recipients, we counted the number the days between a recipient’s date of death and the date an adjustment was made in MMIS to recover the overpayment. The average time to recover overpayments was 155 days and the median time was 91 days. Figure 2 shows that about 40 percent of the recoveries took longer than 100 days.

Figure 2: Days to Recover Overpayments



Source: MMIS paid claims from January 1, 1994 through September 30, 1999 for recipients with dates of death from January 1, 1993 through December 31, 1998.

When overpayments occur, the government incurs an interest cost until the payments are recovered. We calculated the lost interest for both payments that were recovered and those that remained outstanding as of September 30, 1999. Using a 5 percent interest rate, we estimate that the federal and state government incurred \$242,894 in lost interest costs while providers potentially realized a profit of at least the same amount.

CONCLUSIONS & RECOMMENDATIONS

In response to concerns about payments to providers for services to deceased recipients, ODHS tightened its procedures for reporting recipient deaths. Nevertheless, our analysis determined that ODHS paid over \$80 million for such services over a 5 3/4 year period, and that about \$14 million

remained outstanding as of September 30, 1999.

Relying totally on providers and a recipient’s next of kin to report when a Medicaid recipient is deceased

is not the best way to avoid payments for services after a recipient's date of death. In addition, even when ODHS and CDHSs receive timely death notifications, it is not always timely and accurately entered into the recipient master files so it can be used. Over the long term, we believe ODHS' provider direct billing proposal offers promise; however, until that occurs, steps are needed to improve provider reporting and county recording of death notifications. In addition, we believe that a match with Vital Statistic death files, or the equivalent, is warranted to detect the 30 percent of deaths that are not identified within a six-month period.

Therefore, we are recommending that ODHS

- Ensure that CDHSs comply with procedures to accurately enter death notices into the computerized recipient master file within 10 days of the information being reported by nursing homes and other reliable sources.
- Recover overpayments that remain unrecovered, when feasible and cost effective.
- Establish a computer link with the Department of Health's Vital Statistics file, or the equivalent, to periodically update the Medicaid recipient master file. Subsequently, use that information to determine benefit eligibility for Medicaid recipients and recipients of other types of public assistance (e.g. cash assistance and food stamps) administered by ODHS.
- Propose legislation giving ODHS the authority to develop and apply sanctions against providers who do not timely report a recipient's death, or who bill for or retain unearned reimbursements, including reimbursements for services after a recipient's date of death.

AGENCY COMMENTS

When given an opportunity to comment on a draft of this report, ODHS, on March 15, provided additional information and clarifications that were incorporated into the report. ODHS' Director also offered the following comments in

response to our recommendations:

Based on this report, my staff will reexamine the efforts we have made since the last report to address this problem. We will be examining the system requirements needed to effectively use the Vital Statistics file as a tool to check, and amend as needed, the recipient master file. We will continue to push for a direct bill system. We will continue to be open to discussions with the Ohio Department of Health about creating an electronic death certificate system. We will also maintain our efforts with our Third Party Liability contractor to collect monies for overpayments for deceased persons while the cases remain open. We also are interested in evaluating a sample of overpayments cases from your staff for services other than long term care facilities where providers directly bill us for payment.⁵ We want to better understand the

⁵ This data has since been provided to ODHS staff.

circumstances around such payments and use that information to assist us in determining what additional strategies we need to pursue to reduce this problem.

The Director also stated that the Department does not have the statutory authority to develop and apply the sanctions recommended in our draft report. Therefore, we amended our recommendation to say that ODHS should propose legislation that gives it the authority to impose these sanctions.

ODHS offered additional comments on March 21, 2000, and these comments are included as pages 13 and 14 of this report.

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Bob Taft
Governor



Jacqueline Romer-Sensky
Director

Ohio Department of Human Services

30 East Broad Street, Columbus, Ohio 43266-0423

March 21, 2000

Jim Petro, Auditor of State
State of Ohio, Office of the Auditor
88 East Broad Street
P.O. Box 1140
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Dear Auditor Petro:

Thank you for providing me with another opportunity to comment on your report "Payments For Medicaid Services to Deceased Recipients" before it is released. In reviewing the report, I appreciate that you have incorporated most of the comments and suggestions from my March 15, 2000, response into the report. However, I would like to reiterate a few important comments that were not included.

Page 2 of the report indicates that "Office of Medicaid staff confirmed that ODHS still relies on providers and/or recipient's next of kin to report the death of a Medicaid recipient" with regards to nursing home facilities. This mechanism is required by the Ohio Administrative Code, rule 5101:3-3-39, which sets up the time frames and methods for death notifications. Moreover, this mechanism remains the fastest way for us to get information about a person's date of death.

As stated in my March 15, 2000 response, matching with an electronic Vital Statistics tape, as suggested in the report, will not get us this information any faster. Ohio's death reporting system is a paper-based system that requires time to receive the paper report, code the data into an electronic file, and verify the accuracy of that coding. Currently, it requires around six months before we can access a file that contains information about someone's death. As you stated in your report, our current system has a median time of three months which is faster, in general, than the matching system.

We concur with your point that we need to continue to improve our ability to capture and record death information into the recipient master file. We believe that purchasing a direct billing system, which would enable the nursing home to bill the department directly for services, would go a long way toward addressing the problems identified in your report. As stated in my earlier response, and as you did point out in the new draft, the department sought funding in the biennial budget process to permit us to make the necessary technical changes to allow nursing home providers to bill the department directly for services that they provide. Unfortunately, we were not successful in securing these funds in the most recent budget cycle; however, we continue to work toward this outcome.



An Equal Opportunity Employer

What you did not include in your new draft, as noted in my March 15, 2000 response, is that payments on behalf of persons who are deceased, especially those persons residing in a long term care facility, are reasonable. As indicated in my response, without a direct billing system for nursing homes, and given the current payment system and reporting the timeframes established in Ohio Revised Code and the Ohio Administrative Code, it is probable that everyone could report the patient's death timely and ODHS could still issue a payment for a date of service that occurred after the patient's death. Without direct billing, we expect that we could reasonably make payments for up to two months to a long term care provider after a persons death and then would need to obtain repayment of these payments.

We appreciate that your final report acknowledges that the department is involved in a lawsuit that is preventing us from collecting overpayments from long term care providers for closed cases until resolution of the lawsuit. As our March 15, 2000 letter indicated, the majority of the overpayments identified for the 1994-1996 period are from the audit work and the findings identified in your 1997 report on Ohio Nursing Homes. Until we obtain permission from the court, we will be unable to collect monies for 1994, 1995, and 1996, which totals upwards of \$6.12 million in unrecovered overpayments (or 75% of the \$8,160,119 reported as net unrecovered payments for these years) per your most recent audit.

The department continues to seek improvements in the matching of deceased recipient information to provider payment systems. We have directed staff to review our existing procedures and begin work on a corrective action plan. We will make every reasonable effort to update your staff on our progress regarding this issue.

Thank you, once again, for providing me with the opportunity to express my concerns regarding the report.

Sincerely,


Jacqueline Romer-Sensky
Director



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DECEASED RECIPIENTS

STATE-WIDE

CLERK'S CERTIFICATION

This is a true and correct copy of the report which is required to be filed in the Office of the Auditor of State pursuant to Section 117.26, Revised Code, and which is filed in Columbus, Ohio.

Susan Babbitt

CLERK OF THE BUREAU

CERTIFIED
APRIL 18, 2000