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Testimony on:
Update on Local Education Agency Audits

presented to:
Legislative Educational Planning Committee

by:
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October 18, 2006

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**Legislative Budget Committee
October 18, 1:30 pm**

Update on Local Education Agency Audits

Chairperson Decker and Members of the Committee, I am Scott Brunner, former Director of the Medicaid and HealthWave and current Chief Financial Officer of the Kansas Health Policy Authority (KHPA). I appreciate the opportunity to appear before you today to discuss audits and deferrals related to Medicaid payment policies for Local Education Agencies (LEA), otherwise known as school districts.

Introduction:

Today I will describe several audits that have been conducted by the US Health and Human Services Office of the Inspector General (OIG) regarding the school districts and Medicaid payment policies. The Kansas Medicaid program, along with most state Medicaid programs, is under increased scrutiny from the Centers for Medicare and Medicaid services to ensure that the program is compliant with federal Medicaid rules and consistent with the Kansas Medicaid State Plan. As you are aware, over the course of the past several years, a number of administrative and billing issues have been identified through Office of Inspector General (OIG) audits spanning numerous years. The recent passage of the Budget Deficit Reduction Act has resulted in an intensification of federal scrutiny.

Background:

The Medicaid school-based health services program allows Medicaid reimbursement for medically necessary services in a school setting. School districts provide or arrange such services identified in individualized education plans for children with special needs. During state FY 2006, Kansas Medicaid paid \$38.2 million to participating school districts for an average of 12,000 students each month. These funds compensate schools for a range of services provided within a child's individualized education plan based on that student's primary disability. The services included within the Kansas Medicaid State Plan include health screening; vision, speech, or language services; physical therapy; occupational therapy; school nursing, rehabilitative assistance, and medical transportation. Services must be provided by licensed or qualified providers, depending on the type of service and state licensing requirements. Services must be documented in the child's special education record and must include when and who provided the service, a physician's order as required for therapy, and demonstrated progress toward the child's goals.

Kansas currently uses a bundled, or per-child-per-month, payment to reimburse all participating school districts each month. This reimbursement is for all Medicaid services provided to Medicaid-eligible students who attend school at least once during the service month. Medicaid also reimburses schools for administrative service provided to Medicaid eligible children to help coordinate services and referral across systems.

During the period from FY 1998-2003 Kansas received approximately \$135.2 million in federal Medicaid funds for services provided through LEAs. All of the audits that the Committee asked about occurred during this same time period, and there is significant overlap across the audits in the time periods examined and the federal expenditures questioned.

We have a new contract for administrative claiming that became effective January 1, 2005. Maximus is

completing its work to collect data on services provided through LEAs and the documentation of those services. This data can be used to recalculate the bundled rate or justify moving back to a fee for service claiming system based on the services the schools actually provide.

Medicaid School-Based Administrative Activities in Kansas (A-07-03-00154) (April 2005):

School districts perform administrative functions such as outreach, eligibility intake, information and referral, health service coordination and monitoring, and interagency coordination. The program began in Kansas in FY 2001, and as of April 2005, Kansas had received \$9.7 million in federal matching funds for 156 school districts for administrative activities. Kansas calculates the administrative costs to be paid to school districts based on cost reports and random moment time studies where school district employees are surveyed randomly regarding their activities at a given minute.

The subject of the audit was \$2.8 million in Medicaid reimbursements for administrative functions that Kansas made in FY 2002. The Office of Inspector General (OIG) finding suggests that in the four sampled school districts 773 of 1,937 time studies were completed inaccurately. The OIG alleges that the four school districts received \$293,182 for services that did not qualify because of time study errors in FY 2002, and that it is possible additional services in other years may also not qualify. The OIG also found inaccuracies in a cost report submitted by one school district.

Kansas does not concur with the finding of inaccurate time studies. OIG advised there were discrepancies in the time studies relating to the “Comment Line” on the document. Either the written comments did not support the activities selected in the time studies or no written comment was provided. However, Kansas’ approved Medicaid State Plan did not require the comment line to be completed until FY 2003, and all time studies in question were completed prior to implementation of the FY 2003 requirement.

Kansas has addressed the OIG’s finding of an inaccurate cost report by revising the claims related to that cost report and by taking steps to increase the accuracy of the cost reporting in the future.

Review of Medicaid School-Based Services in Kansas – Application of Bundled Rates (A-07-04-01003) (January 2006):

The bundled rate used from FY 1998-2003 was designed to reimburse school districts the costs for a full year (12 months) in payments to be rendered over a period of nine months. Kansas inadvertently advised school districts to claim costs outside of the traditional nine-month school year. As a result, the bundled rate was paid for all 12 months instead of only nine months.

Kansas made three excess monthly payments to school districts each year from FY 1998-2003. The audit finding reported that in providing these excess payments to school districts Kansas received \$13.9 million in excess federal matching funds.

The OIG recommended that Kansas refund the \$13.9 million to the Federal Government, and ensure that future claims for Medicaid reimbursement for school-based services are submitted pursuant to Federal regulations and

the State plan.

Kansas responded by concurring that the \$13.9 million was accurate, and reporting the corrective action steps the State had undertaken and completed, including the following:

- Notified school district staff that reimbursement is only available for nine months;
- Updated the billing instructions in the LEA Provider Manual;
- Conducted on-site visits to the school districts for monitoring compliance;
- Provided training for school district staff on the billing instructions;
- Requested a routine system report to identify claims with invalid service dates;
- Began recoupment process for claims with invalid service dates;
- Awarded a service contract January 1, 2005 to re-evaluate the present Bundled Rate methodology.

The \$13.9 million was taken from the federal fund allotment that the state received in May 2006.

Review of School-Based Health Services in Kansas (A-07-03-00155) (February 2006):

The objective of the audit was to determine whether Kansas claimed costs for school-based health services provided by selected districts for FY 2002 in accordance with Federal requirements and the State plan. During this audit period, the state received \$27.7 million in federal matching funds for LEAs.

Findings of the audits were that Kansas claimed some costs that were not in accordance with Federal requirements or the State plan. According to the audits, Kansas provided incorrect or inadequate instructions to local school districts on submitting claims for Medicaid school-based services to the State for reimbursement. The OIG reviewed a statistical sample of 300 claims for three school districts. Of those claims, they determined 217 claims to be unallowable for the reason that services were not rendered or the claims did not include the required prescriptions or referrals. The OIG reported that many services also lacked documentation for items such as place of service, type of service rendered, and units of service provided.

For those three school districts, \$5.1 million out of the \$8.1 million in federal matching funds that the three districts received was unallowable. The OIG applied this finding across all school districts and projects that a similar proportion may be unallowable across the entire amount of federal matching funds Kansas received.

The OIG recommended that Kansas refund the \$5.1 million, and calculate and refund the portion of the remaining LEA funding that was unallowable. Other recommendations include providing correct and adequate billing instructions to school districts, and ensuring that school districts maintain required documentation supporting health-related services performed.

Kansas challenged the finding because we do not believe the finding to truly be reflective of all school districts, and we contend that a physician order is not required for some of the services deemed unallowable. Kansas has since provided adequate billing instructions to school districts, and we have increased oversight to ensure that supporting documentation is present for services performed. We have added more Surveillance and Utilization Review System reviews, more school district onsite visits, and expanded LEA Documentation Training.

Because we do not agree with these findings, we are continuing to work with the federal government in determining reimbursement. This finding will probably be changed into a disallowance by CMS, allowing the

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Kansas Health Policy Authority ♦ Presented on: 10/18/06

state to challenge the audit findings at the Departmental Appeals Board.

Medicaid School-Based Services in Kansas – Adjustment of the Bundled Rates (A-07-06-01030) (May 2006):

There are 15 flat payment rates that vary according to the primary disability, as specified in the child's individualized education plan. Kansas periodically adjusts the payment rates for inflation using a consumer price index established by the U.S. Department of Labor, Bureau of Labor Statistics. The OIG audit found Kansas did not adjust the payment rates for inflation consistent with the costs that were used to develop the rates in 1997. Therefore, payments in FY 1998-2003 were overpayments.

The OIG recommended that Kansas appropriately adjust the rates, calculate and refund the overpayments. It was also recommended that Kansas develop and implement adequate internal controls to ensure the integrity of such payments in the future.

Kansas responded to these recommendations. The rates were not inflated each year and would probably be higher than what was actually paid if an annual growth rate were applied to the base year rate. We continue to work with the federal government to determine if the rates should be adjusted or recalculated, and to refund any identified overpayments. This is an on-going discussion. Second, Kansas concurred with the need to develop and implement adequate internal controls. We understand the issues addressed and have attempted to address them through contractual changes and increased oversight.

Review of Medicaid School-Based Services in Kansas – Bundled Rate Development (A-07-05-01018) (June 2006):

Kansas developed the bundled rates using data on the cost and utilization of health services by special education students in six school districts. There are 15 flat payment rates that vary according to primary disability specified in the child's individualized education plan.

The OIG audit found Kansas did not develop the payment rates for Medicaid school-based services pursuant to Federal requirements and the State plan. Kansas used incorrect indirect cost rates and service utilization data to develop the payment rates. Kansas did not have adequate internal controls to ensure that it correctly developed the payment rates. As a result, the payments to school districts for FY 1998-2003 were incorrect, and Kansas received \$18.5 million of overpayments.

Recommendations were for Kansas to refund \$18.5 million to the federal government, calculate and refund all overpayments that occurred subsequent to our audit period, and to develop and implement adequate controls to ensure that future Federal claims for school-based services are consistent with Federal requirements and the State plan.

Kansas responded by concurring with the finding that school-based service rates were calculated using incorrect indirect cost rates. Kansas agreed to refund the \$18.5 million, and stated that we would continue efforts to ensure that the Medicaid-funded school-based services program complies with all Federal requirements.

Conclusion:

While the time periods concerning all five audits occurred prior to 2003, KHPA has increased oversight of the program through contractual changes and improved training of schools. Kansas initiated a new contract that began January 1, 2005 with Public Consulting Group to revise the administrative claiming process to meet the new requirements imposed by CMS and based on the comments of the OIG. In addition, we have reimbursed several audits that included clear and unambiguous findings, and we are continuing to work with the federal government to determine other reimbursements.

KHPA is taking all needed steps to resolve these issues in an adequate and timely manner. We have implemented the OIG's recommendations for our LEA programs including additional training, manual changes, and increased reviews. We continue to work with the federal government to ensure all issues are resolved. Currently, the Centers for Medicare and Medicaid Services track all outstanding audit recommendations and findings identified by the OIG. We report to them monthly on our progress for each one and are working with them to resolve open findings.

We look forward to working with the federal government on a regular basis to ensure sufficient and appropriate reimbursement for school based services. With the recent creation of the Kansas Health Policy Authority as the single state agency for Medicaid, there are new opportunities to identify and correct these inconsistencies, and to build a positive working relationship with CMS to collectively resolve these issues. Working closely with CMS, we will resolve these payment issues, ensure appropriate payment policies going forward, and prevent future liability for the State of Kansas.