

TennCare - Federal OIG Audit Summary- October 2021

- The Office of Inspector General within the federal Department of Health & Human Services (HHS) conducted an audit of Tennessee's (TennCare) claims for certified public expenditures (CPE) for the years **2009 to 2014**, a period that began more than a decade and two prior state administrations ago.
- CPE represents uncompensated care provided by Tennessee's public hospitals and institutions. The state generates federal matching funds on these expenditures and utilizes the funding for the general TennCare program. CPE provided \$100 million in federal funding for TennCare in FY 2020.
- OIG findings and recommendations center on two categories of CPE: 1) Hospital Uncompensated Care; and 2) Institutions of Mental Disease (IMD) Uninsured Costs.
- The overall funds in question total hundreds of millions of dollars; however, **TennCare strongly disputes the findings** and deems them completely unreasonable and unwarranted. For approximately half of the findings, OIG recommends the state provide documentation to support net costs. TennCare has already provided sufficient documentation.
- This audit highlights a flawed federal audit process. Auditing and holding an entity responsible for activities and detailed documentations from 12 years ago is unreasonable and places state governments, Medicaid members and taxpayers at risk and in an impossible position. No individuals involved in the decisions pertaining to the years in question remain employed by either TennCare or the Centers for Medicare & Medicaid Services (CMS).
- Limited available records point to much confusion and a lack of clarity around federal CPE standards leading up to the audit period. While our best historical analysis shows TennCare and CMS officials at the time discussed reaching an agreement on CPE protocol by 2009, it appears no agreement was reached by that date, even after the state submitted a protocol for CMS review and approval and even after CMS committed to an expedient response, which did not occur.
- In addition, more than half of the findings relate to IMD claims for which TennCare has provided completely acceptable and auditable information to justify them. Yet, OIG is inexplicably attempting to hold Tennessee accountable to rules proposed in 2019 as part of the Medicaid Financial Accountability Rule (MFAR), which were later withdrawn after considerable pushback by states.
- Further highlighting the unreasonableness around IMD findings is the fact that OIG is giving Tennessee zero credit for uncompensated care in IMDs for the years in question, essentially declaring IMDs to have had no valid claims for uninsured patients from 2009 to 2014. This defies logic and fairness.
- Every dollar of the funds in question was used to benefit Tennesseans – TennCare members and providers – and an absence of these funds would have unquestionably resulted in fewer people served, less services provided and/or less reimbursement paid.
- OIG will refer the findings to CMS – OIG does **not** make any decisions on repayment or enforcement. TennCare looks forward to discussion with CMS. We will actively refute the OIG findings and take all necessary steps and appeals to avoid unwarranted repayment.