State of New York
Office of the State Comptroller
Division of Management Audit

DEPARTMENT OF SOCIAL SERVICES

MEDICAID ELIGIBILITY DETERMINATIONS FOR LONG-TERM CARE

REPORT 94-5-28

H. Carl McCall
Comptroller
Division of Management Audit

Report 94-S-28

Mr. Michael J. Dowling
Commissioner
Department of Social Services
16th Floor
40 North Pearl Street
Albany, NY 12243

Dear Mr. Dowling:

The following is our draft report of certain activities of the New York State Department of Social Services relating to Medicaid eligibility determinations for long-term care.

This audit was performed pursuant to the State Comptroller's authority as set forth in Section 1, Article V of the State Constitution and Section 8, Article 2 of the State Finance Law.

This report was prepared under the direction of David DeStefano, Director of State Audits. Major contributors to the report are listed in Appendix A.

June 1, 1994
Executive Summary

Department of Social Services
Medicaid Eligibility Determinations for Long-Term Care

Scope of Audit

Title XIX of the Social Security Act (Act) provides for a program of medical assistance (Medicaid) for certain low income individuals and families. The New York State Department of Social Services (Department) supervises the program, which is administered by the 58 local social services districts (districts) throughout the State. New York State spent about $16 billion (Federal, State and local funding) during the year ended September 30, 1992 on Medicaid, including $3.5 billion for long-term care.

Persons who apply for Medicaid benefits must meet the program's eligibility requirements as established by the Federal government. In New York State, Medicaid applicants (applicants) must complete an application form that requires them to provide detailed information about their assets and income, including whether or not they made transfers of assets within the preceding 30 month period. (Effective October 1, 1993 the period is 36 months.) District eligibility workers review the information with the applicant and take steps to verify the assets and resources reported by the applicant. To meet Federal requirements for a Medicaid Eligibility Quality Control program, the Department's Office of Quality Assurance and Audit (QA&A) has implemented systems to further verify applicant eligibility.

Our audit addressed the following question regarding Medicaid eligibility determinations for long-term care:

Does the Department have adequate procedures to identify applicants who have transferred their assets to become eligible for Medicaid?

Audit Observations and Conclusions

Federal reviews have determined that present Department procedures meet Federal requirements for verifying individuals' eligibility for Medicaid. However, there is a potential for the Department to generate additional savings when verifying applicant eligibility by expanding the use of unearned income information available from the Internal Revenue Service (IRS 1099 data).

Some individuals employ estate planning techniques that dispose of their assets by means of trusts, title changes and cash gifts expressly to meet Medicaid eligibility requirements. Section 1917 of the Act
provides for a period of ineligibility if an applicant, or spouse, transfers assets for less than fair market value within 30 months before applying for Medicaid. The ineligibility period is intended to approximate the number of months in a nursing home which the transferred resources would have purchased.

We reviewed Department practices to determine their effectiveness in ensuring that Medicaid applicants properly report all asset transfers. We noted that these practices include using IRS 1099 data to verify the completeness of information submitted by the applicant. Using IRS 1099 data helps identify ownership of bank accounts, stocks and bonds, as well as transfers of assets. For each account identified by the IRS 1099 data, district eligibility workers obtain and review the account statements and inquire about the transactions. The Department reported that using the IRS 1099 data alone saved about $6 million in inappropriate Medicaid payments in fiscal year 1990-91. However, we believe the Department can enhance savings through additional use of IRS 1099 data.

At present, the Department uses IRS 1099 data to identify unreported unearned income or transfers of assets for only one Federal tax year, even though the ineligibility period was 30 months for the period covered by our audit and has now increased to 36 months. Although using only one year's IRS 1099 data meets Federal requirements, the Department may not be identifying all asset transfers that affect an applicant's eligibility. As detailed in our report, it is possible for transfers of assets to take place during the period of ineligibility without detection by the Department if only one year's IRS 1099 data is used. We believe that the Department should perform a cost-benefit analysis to determine whether it should obtain IRS 1099 data for a longer period. We believe the cost to perform such an analysis can be kept to a reasonable level and that such an analysis would assist Department managers in determining whether they can generate additional savings.

During our audit, Department managers told us they did not believe that using the additional IRS 1099 data would enhance savings to the State and therefore a cost-benefit analysis was not necessary. However, Department officials could not provide us with documentation to support their position. We believe a formal cost-benefit analysis is necessary to gather the facts as to whether or not additional savings are possible. Our report provides further details on how such an analysis may be undertaken as well as why additional use of IRS 1099 data appears to be an option that deserves further study. (see pp. 5-8)

Response of Department Officials to Audit

Department officials agree with our recommendation and plan to implement it.
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Title XIX of the Social Security Act (Act) provides for a program of medical assistance (Medicaid) for certain low income individuals and families. Federal, State, and local funds finance New York State’s Medicaid program. The New York State Department of Social Services (Department) supervises the program, that is administered by the 58 local social services districts (districts) throughout the State.

The Act requires that persons who apply for Medicaid benefits meet the program’s eligibility requirements. To obtain this assurance, the Federal government sets verification standards that eligibility workers must follow and mandates a Medicaid Eligibility Quality Control program to confirm that eligibility determinations are appropriate. In New York State, Medicaid applicants (applicants) must complete an application form that requires them to provide detailed information about their assets and income, including whether or not they made transfers of assets within the preceding 30 month period. District eligibility workers review the information with the applicant and take steps to verify the assets and resources reported by the applicant.

To meet Federal requirements for a Medicaid Eligibility Quality Control program, the Department’s Office of Quality Assurance and Audit (QA&A) has implemented systems to further verify applicant eligibility. On a sample basis, QA&A auditors verify information supplied on the application form and verify the district office eligibility worker’s discussions with the applicant and his or her family members. Auditors also verify the accuracy of the work performed by the eligibility workers, and attempt to identify at least two bank accounts when the applicant claims not to have any. The Department also performs computer matches of certain financial information provided by the applicants with various Federal and State databases to determine whether application data is accurate and complete. The Department estimates that by performing these matches, it avoids paying about $8 million annually in inappropriate Medicaid payments.

New York State ranks first nationally in Medicaid spending. State Legislators designed New York’s Medicaid program primarily to meet the short-term needs of poor women and children. However, Medicaid recipients in long-term care facilities compose about 3.4 percent of Medicaid beneficiaries but account for almost 22 percent of the program’s spending. New York State spent about $16 billion
Audit Scope, Objectives and Methodology

For the period April 1, 1992 through September 30, 1993, we audited selected Department practices for ensuring the accuracy of Medicaid eligibility determinations. Our audit focused on the Department's ability to determine if applicants have transferred their assets to become eligible for Medicaid. To accomplish this objective, we reviewed Department and Federal procedures and regulations, interviewed responsible Department managers and Federal program officials, and visited two district offices to determine whether these procedures and regulations were operating as intended.

We conducted our audit in accordance with generally accepted government auditing standards. Such standards require that we plan and perform our audit to adequately assess those operations that are included within the audit scope. Further, these standards require that we understand the internal control structure and compliance with those laws, rules and regulations that are relevant to the operations that are included in our audit scope. An audit includes examining, on a test basis, evidence supporting transactions recorded in the accounting and operating records and applying such other auditing procedures as we consider necessary in the circumstances. An audit also includes assessing the estimates, judgements, and decisions made by management. We believe that our audit provides a reasonable basis for our findings, conclusions and recommendations.

We use a risk-based approach to select activities for audit. We, therefore, focus our audit efforts on those activities we have identified through a preliminary survey as having the greatest probability for needing improvement. Consequently, by design, we use finite audit resources to identify where and how improvements can be made. We devote little audit effort reviewing operations that may be relatively efficient or effective. As a result, we prepare our audit reports on an "exception basis." This report, therefore, highlights those areas needing improvement and does not address activities that may be functioning properly.

Response of Agency Officials to Audit

A draft copy of this report was provided to Department of Social Services' officials for their review and comment. We considered their comments in preparing this report. A copy of the Department's response is included as Appendix B.
In addition to the matters discussed in this report, we have provided Department officials with detailed comments concerning other related matters. Although these matters are of lesser significance, our recommendations relating to these matters should be implemented to improve controls.

Within 90 days after the final release of this report, as required by Section 170 of the Executive Law, the Commissioner of the Department of Social Services shall report to the Governor, the State Comptroller, and leaders of the Legislature and fiscal committees, advising what steps were taken to implement the recommendations contained herein, and where recommendations were not implemented, the reasons therefor.
Use of IRS Data For Medicaid Eligibility Determinations

The Act requires states to implement certain procedures to verify individuals' eligibility for Medicaid. Part of the eligibility determination process involves obtaining assurances that applicants properly report both assets they currently hold and assets they transferred before applying for Medicaid benefits. Federal reviews have determined that present Department verification procedures meet Federal requirements, and the Department reports that its procedures save significant State Medicaid funds. However, there is the potential for the Department to generate additional savings by expanding the use of unearned income information available from the Internal Revenue Service (IRS 1099 data).

Some individuals employ estate planning techniques that dispose of their assets by trusts, title changes and cash gifts expressly to meet Medicaid eligibility requirements. While Federal laws allow for some extent of Medicaid planning, they also impose certain limitations. Through September 30, 1993, Section 1917 of the Act provided for a period of ineligibility if applicants or their spouse transferred assets for less than fair market value within 30 months before applying for Medicaid. Effective October 1, 1993, Federal legislation extends the "look back" period for such transfers to 36 months. Because the new legislation took effect after our audit scope period, our report uses the 30 month criteria.

The ineligibility period is intended to approximate the number of months in a nursing home which the transferred resources would have purchased. To calculate the period of ineligibility, an average monthly cost for nursing home care is used. The average monthly rate for New York State is about $4,000. The period of ineligibility begins the month the applicant made the prohibited transfer. The State only realizes a savings when the period of eligibility extends beyond the date of application.

For example, if the Department detects an $80,000 transfer, the period of ineligibility would equal 20 months ($80,000/$4,000). In this example, if the applicant applies for Medicaid 8 months after making this transfer, the applicant would lose Medicaid eligibility for 12 future months (20 months of ineligibility less 8 months that have elapsed since the transfer of assets). However, if in this example, the applicant applies for Medicaid 25 months after making the transfer, the applicant would not lose Medicaid eligibility since the 20 month
period of ineligibility had expired at the time the application was made. Prior to October 1, 1993, the maximum period of ineligibility was 30 months. However, the new legislation effective October 1, 1993 does not limit the period of ineligibility.

We reviewed Department practices to determine their effectiveness in ensuring that Medicaid applicants properly report all assets and asset transfers. To meet Section 2651 of the Federal Deficit Reduction Act of 1984, the Department developed a system called the Resource File Integration (RFI) system to compare income information provided by applicants with financial information contained on various State and Federal agencies' resource files. These files include those maintained by the New York State Comptroller's Office, the New York State Department of Taxation and Finance, the New York State Department of Labor and information from the Federal Social Security Administration. The RFI system also uses IRS 1099 data to verify the completeness of information submitted by the applicant by identifying ownership of bank accounts, stocks and bonds. In addition, the Department uses the IRS 1099 data to identify prohibited transfers of assets. For each account identified by the IRS 1099 data, district eligibility workers obtain and review the account statements and inquire about the transactions. The applicant must show that the transactions are not transfers of assets. The Department reported that the match using IRS 1099 data alone saved about $6 million in inappropriate Medicaid payments in fiscal year 1990-91, the most current saving information available. Of the $6 million in savings, about $3.5 million represents cash recoveries, which means the Department recovers benefits already paid, and $2.5 million represents cost savings, which means the Department avoids paying benefits to ineligible persons.

Federal reviews have found that the Department's system for determining Medicaid eligibility meets Federal requirements. However, we believe the Department can achieve enhanced savings through improved identification of unearned income and related transfers. At present, the Department uses IRS 1099 data to identify unreported unearned income or transfers of assets for only one Federal tax year, not the entire 30 month "look back" period prior to the application. Therefore, the Department may not be identifying all asset transfers that affect an applicant's eligibility. For example, if an applicant applied for Medicaid in July 1993, the 30 month "look back" period would extend back to January 1991. However, the Department's current matching system would only use the IRS 1099 data covering 1992. If the applicant closed an account and transferred the funds in 1991, and did not disclose this transaction on their Medicaid application, the Department's current system would not detect it. The Department's current procedures only require
districts to follow up on information disclosed on the application and accounts identified by the RFI system. Furthermore, the two districts we visited during our audit had not implemented any transfer detection procedures beyond what the Department requires.

Using IRS 1099 data to identify assets such as bank accounts, stocks and bonds provides states with what appears to be the most thorough method of identifying this type of asset transfers. This is because the IRS 1099 data is nationwide, automated and readily available. We could not identify any other method to obtain such a broad verification of accounts that were in existence during the previous 30 or 36-months, that would not be extremely labor intensive.

Department staff stated they had not requested the additional information necessary from the IRS to verify the entire transfer period. According to a manager at the IRS Disclosure Office, the Department could receive IRS 1099 data for Medicaid applicants for more than one year. Under its current matching agreement, the Department pays the IRS $0.01 for each tax record of each Medicaid applicant under review. This manager told us the Department would have to pay a slightly higher cost for the additional information. The manager explained that the Department would have to make a one time payment of about $12,500 to the IRS for the necessary computer programming to extract the additional information plus an additional $.05 per record for each additional tax year.

We believe that the Department should prepare a cost-benefit analysis to determine whether the Department should obtain IRS 1099 information for the entire transfer period. Such an analysis would assist Department managers in determining whether they can generate additional savings by obtaining this data. Since the cost-benefit analysis would be performed after October 1, 1993, the analysis should cover the 36 month transfer "look back" period. This would require that IRS 1099 data for two additional years be obtained. Therefore, if the Department obtained the additional IRS 1099 data for a sample of 1,000 long-term Medicaid applicants, it would involve an additional cost of about $12,600 ($12,500+(1000 x $.10)). We recognize that there would be other additional costs associated with an extended review of IRS 1099 data, such as the cost of staff time needed to investigate any additional accounts. To some extent, these costs could be mitigated by the Department by including this effort as part of its ongoing monthly Medicaid eligibility review process. The Department could then use their sample results to determine whether obtaining the additional data is cost-effective.
During our audit, Department managers told us they did not believe a cost-benefit analysis was necessary. They believe that using the additional IRS 1099 data would not result in additional savings to the State. They stated the Federally-mandated method for calculating periods of ineligibility under the transfer provisions would limit their ability to obtain additional savings. Department officials believe the average amounts transferred would not result in a cash savings to the State. However, Department officials could not provide us with information on the average cash value of transfers that take place. Therefore, we believe a formal cost-benefit analysis is necessary to gather the facts needed to determine whether additional savings are possible.

We considered performing such a cost-benefit analysis as part of our audit. However, IRS officials told us that they would not be able to provide the additional IRS 1099 data until July 1994. This would have precluded the processing of our report in a timely manner.

**Recommendation**

Perform a cost-benefit analysis of obtaining IRS 1099 data for Medicaid applicants for the entire "look back" period. If warranted, use the IRS 1099 data to review applicant information for the entire "look back" period.

(Department officials generally agree with our recommendation.)
Major Contributors to This Report

Douglas Hunter, Audit Manager
Richard K. Sturm, Audit Supervisor
Christopher Bielawski, Auditor-in-Charge
Mark R. Ren, Lead Auditor
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Brenda Carver, Staff Auditor
Michael Muth, Staff Auditor
Paul Bachman, Report Editor
Dear Mr. Attmore:

We have reviewed your report and share your concern that the State should identify and recover all assets that may have been improperly transferred by Medicaid applicants, so that these assets can be applied to offset Medicaid expenditures for nursing home care.

As for the report's recommendation to perform a cost benefit analysis of the use of 1099 data for the entire 36-month "look-back" period, we will make arrangements with the Internal Revenue Service to obtain the additional 24 months of data. If our initial review of the data shows promise, we would like to propose doing the remainder of the analysis as a joint effort.

Thank you for sharing the report with us.

Sincerely,

Nelson M. Weinstock

May 10, 1994