

## Report in Brief

Date: August 2023

Report No. A-04-22-04089

U.S. DEPARTMENT OF HEALTH & HUMAN SERVICES  
**OFFICE OF INSPECTOR GENERAL**



### Why OIG Did This Audit

Prior OIG audits found that the audited States had improperly calculated or did not refund the Federal share of recoveries from Medicaid managed care organizations (MCOs).

Florida's Medicaid program operates under a managed care waiver in which MCOs are required to make achieved savings rebates (rebates) to Florida when pretax income exceeds certain thresholds.

Our objective was to determine whether Florida properly calculated the rebates in accordance with Florida statutes and terms of the MCO contracts and refunded the Federal share as required.

### How OIG Did This Audit

Our audit covered the \$449 million in MCO rebates that Florida received for calendar years 2015 through 2020 (audit period). We reviewed Florida's general ledger activity for the account containing MCO rebates and the CMS-64 forms Florida filed to determine whether Florida properly reported the rebates and refunded the Federal share. We also confirmed that the MCO rebates were properly calculated.

## Florida Did Not Refund \$106 Million Federal Share of Medicaid Managed Care Rebates It Received for Calendar Years 2015 Through 2020

### What OIG Found

Florida calculated and received the required MCO rebates totaling \$448,891,916 (\$292,485,420 Federal share) for our audit period in accordance with Florida statutes and the terms of the Medicaid MCO contracts. However, Florida did not properly refund the Federal share of MCO rebates in accordance with Federal requirements. Florida reported only calendar year 2020 rebates on the CMS-64, which totaled \$274,856,893 (\$186,332,359 Federal share), but it did not report rebates for calendar years 2015 through 2019 totaling \$174,035,023 (\$106,153,061 Federal share).

Florida did not report the rebates it received from the MCOs for calendar years 2015 through 2019 on the CMS-64 because Florida officials erroneously believed that they were not required to do so before CMS added the January 15, 2021, provision to the special terms and conditions (STCs) specifically requiring Florida to refund the Federal share of rebates. As a result, before January 15, 2021, Florida did not include a step in its written instructions for preparing the quarterly CMS-64 to report the rebates and refund the Federal share to the Federal Government.

### What OIG Recommends and Florida Comments

We recommend that Florida refund \$106,153,061 to the Federal Government, representing the Federal share of rebates for calendar years 2015 through 2019 that Florida did not refund.

In written comments to our draft report, Florida did not concur with our recommendation that it refund \$106,153,061. Florida said that it was not required by CMS to report the rebates until January 15, 2021. Florida also noted that it had updated its processes to report the rebates on the CMS-64.

After reviewing Florida's comments, we maintain that our recommendation to refund the \$106,153,061 is valid. As we indicated in our report, Florida was required by Federal law, regulations, and guidance to refund the Federal share of rebates even though the STCs did not specifically contain such a requirement until January 15, 2021.