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CMS Is Not Systematically Tracking Whether States Return Federal Shares of Medicaid Managed Care Remittances

REPORT HIGHLIGHTS



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Why OIG Did This Review

- States can require Medicaid managed care plans (plans) to spend at least a certain percentage of their payments on enrollees' health care—known as a minimum medical loss ratio (MLR). States can also require plans to refund money when plans fail to meet this minimum MLR—called an MLR remittance.
- When a State receives an MLR remittance from a plan, the State must return some of it to the Federal government. This Federal share is based on the rate at which the Federal government matched the State's payment for Medicaid services. These amounts owed to CMS can total hundreds of millions of dollars.
- However, we identified concerns that CMS could not readily determine whether and when States return the Federal shares of MLR remittances to CMS, so we looked further into CMS's processes for this.

What OIG Found

CMS cannot readily or systematically track whether States return to CMS the required Federal shares of MLR remittances. To respond to OIG's request for MLR remittance information, CMS needed to reach out to States to determine whether they had returned hundreds of millions of dollars owed. Three factors contribute to these gaps in MLR oversight:



CMS's financial reporting system does not contain dedicated data fields for MLR remittance information that CMS can use to determine whether States returned the Federal shares of MLR remittances.



CMS staff do not routinely share information with each other about the MLR remittance amounts reported or returned.



CMS lacks procedures to track when to expect the Federal share from each State that owes an MLR remittance—which hinders oversight of timely returns.

What OIG Recommends

OIG recommends that CMS:

1. Obtain the Federal shares of MLR remittances from States that failed to return these amounts.
2. Develop the capacity to systematically track and readily determine the amounts of the Federal shares of MLR remittances that States return to CMS.
3. Improve internal communication to confirm that States return the Federal shares of the MLR remittance amounts reported annually to CMS.
4. Routinely confirm that States return the Federal shares of State-reported MLR remittance amounts.
5. Develop procedures to track (a) when each State is expected to return the required Federal shares of MLR remittances owed and (b) whether States have returned the Federal shares timely.

CMS concurred with the five recommendations.

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BACKGROUND

OBJECTIVE

To determine whether and how CMS tracked that States returned to CMS the required Federal shares of medical loss ratio (MLR) remittances for the 2017-2018 and 2018-2019 MLR reporting periods.

Medicaid Managed Care MLRs and Remittances

States must require Medicaid managed care plans (plans) to calculate the percentage of their capitation payments that they spent on enrollees' health care—known as an MLR, as shown in Exhibit 1.^{1, 2} MLRs are a policy tool to ensure the government's stewardship of hundreds of billions of taxpayer dollars in Medicaid managed care funds. Federal MLR requirements were established to ensure that plans spend most of their revenue on enrollees' covered services and quality improvements, thereby limiting the amount that plans can spend on administrative costs and keep as profit.

Exhibit 1: Calculation of a Plan's MLR for a 12-month period

Numerator

Incurred claims plus health care quality improvement expenses



Denominator

Premium revenue minus taxes, licensing fees, and regulatory fees



Source: 42 CFR § 438.8.

In addition to requiring plans to calculate MLRs, States may choose to require their plans to meet a minimum MLR, which if required, must be at least 85 percent.³

States that require minimum MLRs also may choose to require plans to refund money if a plan fails to meet a State-set minimum MLR (i.e., MLR remittance).⁴ An MLR remittance requirement means plans must refund money to States if plans fail to spend enough on enrollees' health care services. As of July 2024, 36 of 39 States that required minimum MLRs also required MLR remittances for at least some plans.⁵

States that opt to require MLR remittances determine the methodology plans must use to calculate any remittance amounts owed.⁶ For example, a State could require that a plan refund the State the portion of its revenue equal to the percentage by which the plan missed the State-set minimum MLR.

Plans and States must report the amount of MLR remittances owed. Plans that are required to meet State-set minimum MLRs with remittance requirements must report and refund any remittance amounts owed to the State.⁷ Annually for each plan, the State must submit to CMS an MLR summary description that contains plan-

reported MLR information including any MLR remittance amounts the plan owed to the State.⁸

States must return the Federal shares of MLR remittances to CMS. States must return to CMS an amount equal to the Federal shares of MLR remittance amounts received from plans, as shown in Exhibit 2.⁹ The Federal share is equal to the rate at which the Federal government matches State Medicaid expenditures.¹⁰ Each State's Federal share rate is determined annually and, in 2024, ranged from a minimum of 50 percent to a maximum of 77 percent.¹¹

Exhibit 2: Illustrative example of MLR remittance process when Federal share is 50 percent (if State has a minimum MLR with a remittance requirement)



Source: This exhibit is an example based on 42 CFR §§ 438.8 and 438.74. To illustrate the concept of the Federal share, this example does not subtract taxes and fees from the plan's premium revenue, and "admin." refers to administration (e.g., marketing, accounting).

States return Federal shares to CMS using the quarterly Form CMS-64. States must submit the Form CMS-64 to account for both their actual Medicaid expenditures and any refunds received by the State in a quarter. When submitting each quarterly Form CMS-64, States must have complete supporting documentation (e.g., invoices, cost reports, and eligibility records) immediately available in a readily reviewable format.¹² When a State returns to CMS the Federal shares of refunds received in a quarter, it reports aggregated amounts on the Form CMS-64 that could include Federal shares being returned for a number of purposes (e.g., MLR remittances). The supporting documentation explains the purpose(s) of the returned money.¹³ In submitting the Form CMS-64, any returned amounts are subtracted from the amount that CMS pays the State that quarter. States submit the Form CMS-64 electronically through CMS's web-based Medicaid Budget and Expenditure System (MBES).

CMS reviews States' Forms CMS-64 to ensure accurate Federal payments to States. Various CMS staff review States' quarterly Forms CMS-64 using States' submissions in MBES (CMS's current financial reporting system). Since the Form CMS-64 is designed to capture summary-level financial information, CMS staff are also expected to review some of each State's supporting documentation and may choose to review more than required, using their professional judgment. CMS encourages staff to

focus each review on the parts that could most impact the Federal payment. CMS staff record the results of their quarterly reviews in MBES decision reports.¹⁴

Currently, CMS is designing a new financial reporting system to replace MBES. This new financial reporting system is called the Medicaid and CHIP Financial (MACFin) system. The MACFin system is intended to increase transparency of States' expenditures and amounts that States return to CMS. Although CMS has implemented portions of MACFin, it continues to improve the dependability of the budget and expenditure reporting contained in MBES that will eventually be integrated into MACFin. CMS has not published a timeline for when MACFin will replace MBES.¹⁵

CMS Oversight of MLR Remittances

The 2016 Medicaid Managed Care Final Rule established CMS's oversight of the MLR remittance regulations.¹⁶ Various CMS staff across different CMS divisions share responsibility for ensuring that States return to CMS the required Federal shares of any MLR remittance refunds States receive from their plans.

CMS is responsible for determining whether States reported to CMS all MLR remittance amounts owed to the State. CMS must review MLR summary descriptions to determine whether States reported to CMS all MLR remittance amounts that plans owed to States. CMS creates an MLR data file to record and review plan-level data (e.g., MLRs, MLR remittance amounts owed) that States included in their MLR summary descriptions. In this MLR data file, CMS also records the results of its multi-step analysis of whether States reported all MLR remittances.¹⁷ To complete this analysis, CMS contacts States for more information, if needed, and requests that States submit updated MLR summary descriptions when necessary.

CMS is responsible for determining whether States returned the Federal shares of MLR remittance amounts to CMS. According to CMS, States include MLR remittances on the quarterly Form CMS-64 aggregated with other returns. If the Form CMS-64 supporting documents show that any portion of an aggregated return is for an MLR remittance, CMS staff who review the Forms CMS-64 are expected to (1) indicate the amount of an MLR remittance returned in an MBES decision report, and (2) notify the CMS staff who are responsible for determining whether States reported all MLR remittance amounts.¹⁸

According to CMS, if CMS determines that a State has failed to return the Federal share of an MLR remittance, it is responsible for contacting the State to obtain it. If the State refuses to voluntarily return an amount due to CMS, CMS may initiate a disallowance action. If the State agrees with the disallowance action, it should make the appropriate voluntary adjustments on the next quarterly Form CMS-64 submission. If the State disagrees, it may appeal the disallowance action or submit a reconsideration request to CMS.¹⁹

Related OIG Work

In 2021, OIG issued a national overview of the MLRs that plans had achieved. This data brief demonstrated that States that choose to establish minimum MLRs with remittance requirements may recoup millions of Medicaid dollars from plans that failed to meet State set minimum MLRs. Specifically, OIG found that 92 percent of plans' MLRs met or exceeded the Federal MLR standard of 85 percent. However, 19 plans reported owing \$198 million to States that chose to establish minimum MLRs with remittance requirements.²⁰

In 2022, OIG issued the results of its review of 495 annual MLR reports from plans in 43 States. OIG determined that nearly half of plans' MLR reports did not contain all required MLR data elements under review. In addition, OIG found that some States did not review selected MLR data elements in plans' MLR reports for accuracy.²¹ If a plan's MLR report contains incomplete and/or inaccurate data, the plan's calculated MLR may be erroneously inflated or deflated. For a State that sets minimum MLRs with remittance requirements, an erroneously inflated MLR could mean a plan not refunding the State an MLR remittance, as well as CMS not obtaining the Federal share.

OIG has additional work underway related to Medicaid managed care MLRs. One review will examine CMS's oversight of other aspects of MLR requirements not related to MLR remittances, including whether CMS has ensured that States have used MLR data to set actuarially sound capitation rates.²² The other review will audit specific States and plans to determine whether the MLR remittances that plans reported to States (when required) were correctly calculated and whether the States returned the Federal shares of these MLR remittances to the Federal government.²³

Methodology

From November 2023 to March 2025, OIG received information about CMS's oversight of MLR remittances through survey questions; document and data requests; and interviews with CMS's staff. We reviewed the information and followed up with CMS when necessary.

In December 2023, CMS provided the MLR data file that included the MLR remittance amounts that States reported to CMS for the 2017-2018 and 2018-2019 MLR reporting years. According to CMS, this MLR data file was the most recent, final MLR data available at the time of OIG's request. The timeframes CMS established for MLR reporting give plans time to pay provider claims after the end of the MLR reporting year and use claims and other complex data to calculate MLRs. These established timeframes also give States time to review and validate the MLR data reported by plans. Therefore, CMS does not expect States to submit MLR summary descriptions until several years after the end of the MLR reporting year (hereafter, "the MLR reporting timeline"). For example, a plan with a July 2017 to June 2018 MLR reporting year would submit its annual MLR report to the State by June 2019. Then,

the State would use this information from the plan to submit the MLR summary description to CMS on or after July 2020.²⁴

The 2017-2018 and 2018-2019 MLR reporting years also were the first two years in which plans were required by Federal regulation to calculate and report MLR data for the States to use to submit MLR summary descriptions to CMS.²⁵ As such, these MLR summary descriptions reflect the first MLR data, required by Federal regulation, that CMS reviewed and analyzed. Using CMS's MLR data file, OIG created a list of all 16 States that reported to CMS the MLR remittance amounts owed by their plans for the 2017-2018 and/or 2018-2019 MLR reporting years. In January 2024, we asked CMS whether these 16 States had returned to CMS any portion of these reported MLR remittances.

In addition, OIG reviewed the MBES decision reports entered by CMS staff from 5 States (8 to 12 quarterly reports for each State). Our review of MBES decision reports focused on the five States that reported the largest amounts of MLR remittances owed by plans to States for the 2017-2018 or 2018-2019 MLR reporting years. These 5 States reported \$352 million of the total \$406 million in MLR remittances reported by all 16 States. We reviewed 46 MBES decision reports for Forms CMS-64 submitted by these 5 States to CMS between 2019 and 2022—a time period that could have included CMS's written indication of the return of Federal shares of MLR remittances.

Limitations

This study provides point-in-time information from January 2024 to March 2025 related to the statuses of the Federal shares of MLR remittance amounts that 16 States reported for the 2017-2018 and/or 2018-2019 MLR reporting years. As CMS continues to work with some States regarding their returns, whether CMS ultimately collects these MLR remittances may change. Further, MLR remittance requirements can change over time as States alter their policies. We provide MLR remittance amounts that States reported for two specific MLR reporting years. The amount of MLR remittances reported and owed in more recent years could be lower or higher than the amounts reported for these two years.

Standards

We conducted this study in accordance with the *Quality Standards for Inspection and Evaluation* issued by the Council of the Inspectors General on Integrity and Efficiency.

FINDINGS

CMS does not systematically track whether States return the Federal shares of Medicaid MLR remittances

The most recent, final MLR data from CMS showed that 16 States reported to CMS that their plans owed a combined total of \$406 million in MLR remittances for the 2017-2018 and/or 2018-2019 MLR reporting years. These 16 States should have returned Federal shares of at least \$203 million (see Appendix A).²⁶ In January 2024, CMS was unable to readily determine whether any of the Federal shares of these MLR remittances had been returned. CMS cannot use MBES (CMS's current financial reporting system) to determine the amounts of the Federal shares returned (or not returned) by these States due to the summary-level information States enter into Forms CMS-64. To find out whether States returned any of the Federal shares of MLR remittances, CMS explained, it needed to review Forms CMS-64 and supporting documents again for each State and supplement those sources with additional information from the States. CMS reached out to each State to ask whether it had returned these amounts. Relying on manual reviews and outreach to States (rather than a financial reporting system) limits CMS's ability to ensure timely, effective oversight of MLR remittances.

CMS's financial reporting system does not contain dedicated data fields for MLR remittance information that CMS can use to determine whether States returned the Federal shares of MLR remittances

CMS's current financial reporting system, MBES, does not contain data fields designated for amounts related to MLR remittances. According to CMS, States include the Federal shares of MLR remittances as part of aggregate amounts of reported returns to CMS on the Forms CMS-64 that they enter into MBES. Therefore, CMS cannot generate reports from MBES with the amounts that States returned for the Federal shares of MLR remittances. Currently, CMS is designing the MACFin system to replace MBES. However, CMS has not determined yet whether the MACFin system will include data fields specifically designated for MLR remittance amounts.

In the absence of designated MLR remittance data fields in MBES, CMS staff need to review the supporting documents from States' quarterly Form CMS-64 submissions to determine whether States returned MLR remittances. If so, CMS staff should include a statement in the MBES decision report. Our review of 46 MBES decision reports for 5 States identified only 1 statement for a single State about an MLR remittance amount. However, even in this one statement, the amount was also aggregated with other returns to CMS. Therefore, the MBES decision reports for

these five States could not be used to determine whether States had returned to CMS what was owed for MLR remittances. These five States reported \$352 million in MLR remittances owed to States—with Federal shares of at least \$176 million owed to CMS.

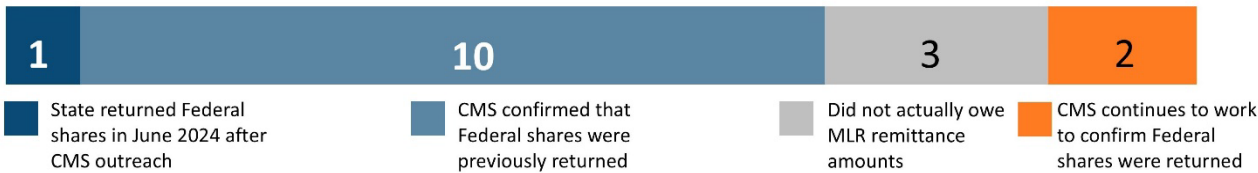
Partial returns of the Federal shares of MLR remittances further complicate CMS's ability to know whether the State returned the entire amount owed to CMS. States are not required to return the Federal shares all at once to CMS. If a State returns a partial amount, CMS cannot use MBES to readily determine how much States paid and how much they still owe for the Federal shares of MLR remittances. CMS could identify a partial return of an MLR remittance amount if CMS's financial staff had written a statement in an MBES decision report to indicate the partial return and the amount; however, none of the 46 decision reports we reviewed included any such statement.

When asked, CMS relied on outreach to States to determine whether States had returned the Federal shares of MLR remittances

Given the limitations of its current financial reporting system, when OIG asked CMS for information about MLR remittance amounts, CMS contacted the 16 States in February 2024. CMS obtained information from States about whether each State had returned to CMS the Federal shares of MLR remittances for the 2017-2018 and/or 2018-2019 MLR reporting years, as shown in Appendix B. According to CMS, State outreach takes time and requires CMS to confirm the information that States provide about their returns of the Federal shares of MLR remittances. For example, although CMS provided OIG with information from seven States in March 2024, it has continued to provide updates based on its work with States through March 2025 and still needs more time to confirm some MLR remittance returns.

CMS has not yet confirmed whether two States returned the Federal shares owed. CMS continues to work with two States, as shown in Exhibit 3, to confirm that they returned the Federal shares of MLR remittances to CMS. One State told CMS it had previously returned the Federal shares of MLR remittances, but CMS has not confirmed when the amount was returned. CMS also continues to work with another State that returned, in September 2024, a portion of the amount owed (\$6 million of an estimated \$88 million). These two States reported a combined total of \$182 million in MLR remittances owed to States—with Federal shares of at least \$91 million.

Exhibit 3: CMS contacted 16 States to ask whether they had returned the Federal shares



Source: CMS responses in 2024 and 2025 to OIG information requests.

One State returned its Federal shares after CMS’s outreach. This State acknowledged to CMS that it had not returned the Federal shares of the \$41 million in MLR remittances that it had reported. CMS worked with this State to obtain the Federal shares in June 2024.

Ten States had already returned their Federal shares. Through outreach with States, CMS confirmed that 10 States had previously returned the Federal shares of the MLR remittances reported to CMS for the 2017-2018 and/or 2018-2019 MLR reporting years. CMS confirmed that these States returned MLR remittance amounts in various quarters between January 2019 and December 2022. These 10 States, combined with the 1 that more recently returned Federal shares, reported a combined total of \$207 million in MLR remittances owed to States.

Three States’ plans did not actually owe MLR remittances. CMS’s outreach with three States found that, for various reasons, the plans did not actually owe the MLR remittance amounts that States reported in their MLR summary descriptions. For example, one State explained that the plan that failed to meet State-set minimum MLR was not required to refund MLR remittances. Another State recalculated the plan’s MLR on the basis of additional information, which resulted in the plan meeting the State’s minimum MLR.

Lack of communication within CMS hinders CMS’s ability to track the MLR remittances reported by States through to the return of the Federal shares

As of March 2024, CMS explained that CMS staff do not routinely share information related to the MLR remittance amounts reported or returned. Since CMS has tasked staff across two divisions with different responsibilities regarding MLR remittances, communication between staff in different parts of CMS is essential for effective oversight of MLR remittances.

The results of CMS’s multi-step analysis of State-reported MLR remittance information are not routinely made available to other CMS staff with different MLR-related responsibilities. This analysis included the 16 States that reported MLR remittances for the 2017-2018 or 2018-2019 MLR reporting years. Due to this lack of communication, CMS staff who review States’ returns included on Forms CMS-64 did

not know to confirm that these specific States returned the Federal shares of MLR remittances.

Similarly, CMS explained that internal communication regarding returns of the Federal shares of MLR remittances does not regularly occur among staff with different MLR-related responsibilities. From CMS's recent outreach to States about reported MLR remittance amounts for the 2017-2018 and 2018-2019 MLR reporting years, CMS confirmed that 10 States had previously returned the Federal shares of MLR remittances between January 2019 and December 2022. As instructed by CMS procedure, after review of these States' Forms CMS-64 and supporting documents, internal communications should have documented that these States had returned the Federal shares of MLR remittances, and then CMS could have tracked that these amounts were returned. In some instances—due to the MLR reporting timeline—the Federal shares of MLR remittances could have been returned to CMS before the staff who review required MLR summary descriptions obtained these MLR data from States.

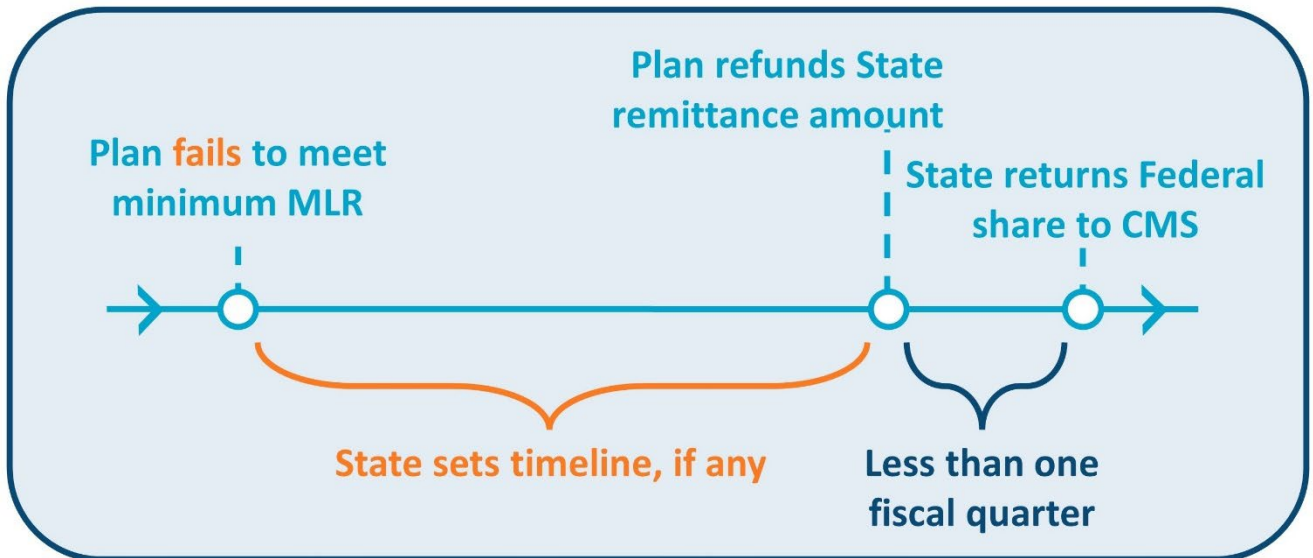
With improved internal communication across various staff, CMS would have been better positioned to track MLR remittances. According to CMS, it is developing ways to share MLR remittance information—including plan-level information—among CMS staff with different MLR-related responsibilities.

CMS lacks procedures to track when to expect the Federal share from each State that owes an MLR remittance—which hinders oversight of timely returns

CMS lacks procedures to track when to expect each State that owes an MLR remittance to return the Federal share to CMS. Without such procedures, CMS's oversight of whether a State returns the Federal share of an MLR remittance begins when a State includes an MLR remittance on its Form CMS-64. If a State does not include an MLR remittance on the Form CMS-64 and one is owed, there is no procedure to alert CMS staff to expect this MLR remittance. For example, CMS did not know that one State had not returned the Federal shares owed for the 2017-2018 and 2018-2019 MLR reporting years until after OIG asked about MLR remittances in January 2024. Then, CMS began to work with the State to obtain these amounts.

Although States should, generally, return the Federal shares of MLR remittance in the quarter in which they receive these amounts from their plans, the timeline for when each State returns the Federal share to CMS depends on when its plans refund MLR remittances to the State, as shown in Exhibit 4. If CMS does not have information (or does not use the information it has) about when States require their plans to refund MLR remittances, then CMS cannot know when to expect the Federal shares from States.

Exhibit 4: The timeline for when a State will return the Federal share to CMS depends on the timeline, if any, that the State sets for a plan to refund the MLR remittance to the State



Source: 42 CFR §§ 438.74, 438.8, and CMS response in 2024 to OIG information requests.

States have flexibility to set timelines for plans to refund MLR remittances. As such, States could opt not to require a specific amount of time or could set overly lengthy timelines. CMS's recent MLR toolkit for States suggests, as a best practice, that States with MLR remittance requirements include in contracts with their plans the process and timelines for plans to refund MLR remittances.²⁷ This toolkit does not include a Federal requirement or specific guidance about the amount of time States should give plans to refund MLR remittances.

In contrast to MLR regulations, Medicaid overpayment regulations create Federal standards for the timeline for States to seek to obtain refunds from providers and for States to return to CMS the Federal shares of overpayments. Although CMS explained that States return the Federal shares of MLR remittance amounts aggregated with overpayments on their Form CMS-64, CMS clarified to OIG that it has not issued guidance regarding whether MLR remittances meet the definition of provider overpayments, and thus, whether the return of the Federal shares of MLR remittances are subject to the applicable timeline from the overpayment regulations. These overpayment regulations give States 1 year from the date of the discovery of an overpayment to a provider to recover or seek to recover the overpayment before the Federal share must be returned to CMS.²⁸ A State must return the Federal share to CMS within 1 year of the discovery date, regardless of whether the State recovered the overpayment from the provider. If a State collects the overpayment before 1 year, the State must return the Federal share to CMS in the quarter in which it was collected.²⁹

CONCLUSION AND RECOMMENDATIONS

Limitations in CMS's financial reporting system and a lack of internal communication among staff with different responsibilities for MLR oversight mean that CMS cannot readily or systematically determine whether States return to CMS the required Federal shares of MLR remittances. MLR remittances can result in hundreds of millions of Medicaid dollars that plans refund to States each year, at least half of which States must then return to the Federal government. However, CMS explained that it needs to conduct lengthy, manual reviews of States' Forms CMS-64 and their supporting documentation—and outreach to States for more information—to determine whether States returned the required Federal shares of State-reported MLR remittances. CMS would be better positioned to ensure that States are appropriately returning the Federal shares to CMS if CMS improved its financial reporting system and its internal communication between staff.

Therefore, we recommend that CMS:

Obtain the Federal shares of MLR remittances from States that failed to return these amounts to CMS for the 2017-2018 and 2018-2019 MLR reporting years

CMS should continue its outreach to confirm whether two States returned all the Federal shares owed and collect what has not yet been returned (at least \$85 million of an estimated \$91 million). If CMS finds that either of these States did not return the Federal shares of MLR remittances, CMS should initiate disallowance actions to obtain these amounts.

Develop the capacity to systematically track and readily determine the amounts of the Federal shares of MLR remittances that States return to CMS

CMS is in the process of developing a new financial reporting system (MACFin). CMS should build into its new system the capacity to systematically track and readily identify States' returns of MLR remittance amounts by including, for example, designated data fields in MACFin. Then, CMS would be able to ensure that all States that reported MLR remittances returned the Federal shares. This would enhance the government's stewardship of Medicaid dollars.

In addition, as CMS continues to use its existing system, MBES, for financial reporting, it should create a new way to track and more readily identify MLR remittance returns within this system. For example, CMS could enable States to indicate MLR

remittance amounts on Forms CMS-64 separately and distinctly from other provider overpayments that States return to CMS. This would, in turn, allow CMS's staff to generate State-specific MLR information from MBES that could be used for oversight of States' return of the Federal shares of MLR remittances. Alternatively, CMS could clarify the process staff use to record information on the MBES decision reports about the Federal shares of MLR remittances that States return on their Forms CMS-64. CMS should provide staff specific guidance and training on the statements staff should include about MLR remittance returns in MBES decision reports.

Improve internal communication to confirm that States return the Federal shares of the MLR remittance amounts reported annually to CMS

Routine, internal communication among staff about MLR remittances would help to maximize internal efficiency and ensure oversight of States' returns of the Federal shares. The staff responsible for different information from States about MLR remittances should share this information to ensure that CMS can keep track of States that reported MLR remittance amounts and confirm that these States returned amounts owed to CMS as required.

Since States annually submit MLR summary descriptions to CMS, the lists of the States and their plans that reported MLR remittance amounts should be routinely shared among staff with different MLR-related responsibilities. In addition, when States return the Federal shares of MLR remittances to CMS, CMS should ensure that Form CMS-64 reviewers follow required procedures to notify the CMS staff who are responsible for determining whether States reported all MLR remittance amounts. CMS stated that it is developing mechanisms to ensure information-sharing among staff.

Routinely confirm that States return the Federal shares of State-reported MLR remittance amounts

Once CMS has developed the capacity to systematically track and readily determine the amounts of the Federal shares of MLR remittances, CMS should use this information to routinely confirm that States return the entire amount owed to CMS. If a State fails to return the Federal share owed, CMS should initiate a disallowance action, if necessary, to obtain it.

Develop procedures to track (a) when each State is expected to return the required Federal shares of MLR remittances owed and (b) whether States have returned the Federal shares timely

CMS recommends, but does not require, that States set timelines in their contracts with plans for when plans' MLR remittances are due to States. For States that do set such timelines for their plans, CMS should develop a way to track this information to know when to expect the Federal shares of MLR remittances from States. CMS should also develop a procedure to routinely reach out to States when the return of Federal shares of MLR remittances appears overdue.

For States that do not set timelines in their contracts for when plans' MLR remittances are due to States, CMS could provide these States with information about the timelines that other States use in their contracts. CMS could also provide guidance to States regarding whether MLR remittances meet the definition of provider overpayments, and thus, whether the return of Federal shares of MLR remittances are subject to the applicable timelines from the overpayment regulations. These types of actions could give States the information needed to communicate with their plans more effectively. If more States follow CMS's best practices and include timelines in their plans' contracts, CMS will be able to track when to expect the Federal shares of MLR remittances from States and work with States if amounts have not been returned.

AGENCY COMMENTS AND OIG RESPONSE

CMS concurred with all five of our recommendations.

First, we recommended that CMS obtain the Federal shares from States that reported MLR remittances for the 2017-2018 and 2018-2019 MLR reporting years. CMS stated that it will continue outreach with the remaining States and will take appropriate action if it finds that States did not return the Federal shares.

In addition, we recommended that CMS develop the capacity to track and readily determine the amounts of the Federal shares that States return to CMS (second recommendation) and use this tracking process to routinely confirm that States return all amounts owed to CMS (fourth recommendation). CMS stated that it will (1) assess how best to identify and track the Federal shares that States must return to CMS; (2) develop the capacity to track MLR remittances, as appropriate; and (3) use this information to routinely confirm that States return the Federal shares.

In response to our third recommendation—that CMS improve internal communication to confirm that States return the Federal shares of MLR remittance amounts reported annually—CMS explained that it has already begun to improve its internal communication and will work toward establishing routine information-sharing among CMS staff that receive different MLR remittance information from States.

Finally, we recommended that CMS develop procedures to track when each State is expected to return Federal shares of MLR remittances and whether States returned those Federal shares timely. CMS stated that it will assess how to best determine when States are expected to return the required Federal shares of MLR remittances as well as whether States have returned these amounts timely.

OIG appreciates CMS's planned actions to track and obtain the Federal shares of Medicaid MLR remittances that are owed to CMS from States annually. When CMS implements these planned actions, CMS will more effectively safeguard Medicaid dollars.

For the full text of CMS's comments, see the Agency Comments appendix at the end of the report.

APPENDICES

Appendix A: Federal shares of MLR remittances must be at least 50 percent of the amount that plans owe to States

State	MLR reporting year(s) ending	State-reported MLR remittance amounts plans owe to State	50% of the State-reported MLR remittance amount ^a
Indiana	2018, 2019	\$176,799,989	\$88,399,994
New York	2019	\$103,038,676	\$51,519,338
Maryland	2018, 2019	\$41,343,652	\$20,671,826
Iowa	2018, 2019	\$15,208,531	\$7,604,265
Idaho	2018, 2019	\$15,120,610	\$7,560,305
New Jersey	2018	\$14,770,523	\$7,385,262
Illinois	2018	\$8,407,380	\$4,203,690
Nebraska	2018, 2019	\$8,069,852	\$4,034,926
Kentucky	2018	\$6,885,110	\$3,442,555
Virginia	2018, 2019	\$4,959,640	\$2,479,820
Louisiana	2018, 2019	\$3,432,794	\$1,716,397
Nevada	2019	\$3,134,972	\$1,567,486
New Hampshire	2018	\$2,093,194	\$1,046,597
Colorado	2018	\$2,000,000	\$1,000,000
West Virginia	2018	\$821,823	\$410,912
Oregon	2019	\$51,262	\$25,631
Totals:		\$406,138,007	\$203,069,004

Source: CMS's MLR data file for the 2017-2018 and 2018-2019 MLR reporting years provided to OIG in 2023.

^a This column provides the minimum Federal share for each State's reported MLR remittance amount based on 87 Fed. Reg. 74429-74431 (December 5, 2022). The Federal medical assistance percentage used to calculate Federal shares may not be less than 50 percent.

Appendix B: Results of CMS’s outreach with 16 States to determine whether they returned to CMS any portion of the required Federal shares of reported MLR remittances

State	MLR reporting year(s) ending	State-reported MLR remittance amounts plans owe to State	Whether State returned any amount to CMS (as of March 2025)
Maryland	2018, 2019	\$41,343,652	State said not previously returned; CMS worked with State and State returned Federal shares in June 2024; CMS has not confirmed amount returned
New York	2019	\$103,038,676	State said previously returned; CMS confirmed State returned Federal shares between January 2019 and December 2022; CMS has not confirmed amount returned
Iowa	2018, 2019	\$15,208,531	
Idaho	2018, 2019	\$15,120,610	
Illinois	2018	\$8,407,380	
Nebraska	2018, 2019	\$8,069,852	
Kentucky	2018	\$6,885,110	
Louisiana	2018, 2019	\$3,432,794	
Nevada	2019	\$3,134,972	
Colorado	2018	\$2,000,000	
West Virginia	2018	\$821,823	
New Jersey	2018	\$14,770,523	State said no amount owed for various reasons; CMS requested updated MLR summary description that does not include amount owed for MLR remittance
New Hampshire	2018	\$2,093,194	
Oregon	2019	\$51,262	
Indiana	2018, 2019	\$176,799,989	State said previously returned; CMS confirmed State returned a portion of the 2018 Federal share in September 2024; CMS continues to work with State
Virginia	2018, 2019	\$4,959,640	State said previously returned; CMS continues to work with State to confirm date and amount returned

Source: CMS responses in 2024 and 2025 to OIG information requests.

 State returned Federal shares in June 2024 after CMS outreach	 CMS confirmed that Federal shares were previously returned	 Did not actually owe MLR remittance amounts	 CMS continues to work to confirm Federal shares were returned
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Appendix C: Agency Comments

Following this page are the official comments from CMS.

*Administrator*

Washington, DC 20201

DATE: March 20, 2025**TO:** Ann Maxwell
Deputy Inspector General
for Evaluation and Inspections**FROM:** Stephanie Carlton
Acting Administrator
Centers for Medicare & Medicaid Services**SUBJECT:** Office of Inspector General (OIG) Draft Report: CMS is Not Systematically Tracking Whether States Return Federal Shares of Medicaid Managed Care Remittances (OEI-03-23-00041)

The Centers for Medicare & Medicaid Services (CMS) appreciates the opportunity to review and comment on the Office of Inspector General's (OIG) draft report. CMS is committed to partnering with states to help strengthen the monitoring and oversight of their managed care programs.

As noted in the OIG's report, Medical Loss Ratios (MLRs) are an oversight tool that generally measure how much a managed care plan spends on the provision of covered services compared to the total revenue it receives in capitation payments. The calculation and reporting of MLRs provides states with the information necessary to understand how capitation payments made for people enrolled in managed care plans are expended. For contract rating periods starting on or after July 1, 2017, CMS regulations require that Medicaid managed care plans calculate and report their MLR according to the standards laid out in 42 CFR 438.8, which are similar to those used for calculating MLRs in Medicare Advantage and the private market. Medicaid managed care plans are required to submit to the state an annual MLR report that, at a minimum, includes the 13 data elements outlined in 42 CFR 438.8(k). States are then required to submit to CMS, along with the rate certification required in 42 CFR 438.7, an annual summary description of the MLR report(s) received from their managed care plans.

In general, while CMS believes that a minimum MLR with a remittance requirement is a reasonable and effective program integrity approach to ensure high quality of care and appropriate service delivery in Medicaid managed care programs, states are not required to set a minimum MLR or require a remittance. However, 42 CFR 438.8(c) requires that if a state elects to mandate a minimum MLR for its managed care plans, the minimum MLR must be equal to or higher than 85 percent and must be calculated and reported for each MLR reporting year consistent with 42 CFR 438.8. Further, as outlined in 42 CFR 438.8(j), if required by the State, the managed care plan must provide a remittance for an MLR reporting year if the MLR for that MLR reporting year does not meet the minimum MLR standard of 85 percent (or higher if set by the state). States must also comply with the requirements related to remittances under 42 CFR 438.74(b), which require the return to CMS of the federal government's share of any remittance a plan owes a state, taking into account applicable differences in the federal matching rate. If a remittance is owed, 42 CFR 438.74(b)(2) stipulates the state must also submit a separate report describing the methodology used to determine the state and federal share of the remittance.

To support states in their implementation of the MLR requirements, CMS has provided guidance to states, as well as individualized technical assistance when needed.^{1,2} For example, a recently released Toolkit provides states with practical information to support the review, validation, and oversight of their Medicaid managed care plans' MLR reporting.³ The Toolkit also includes recommendations for the collection, validation, and use of MLR data, guidance for key MLR policy areas as well as state examples for creating an effective financial monitoring system. In addition, CMS has developed an online reporting portal, with instructions, for the required MLR summary reports, along with an Excel version of the report.⁴ During the development of this online portal, CMS consulted with states and other stakeholders on the content and format, and the online portal includes changes made to address comments and concerns from those entities. Lastly, in order to promote transparency, CMS recently began publicly releasing state submitted MLR summary reports, which include plan-specific MLRs for Medicaid managed care programs.⁵

As described in the OIG's report, the Form CMS-64 is a statement of the quarterly expenditures for which states claim federal matching funds under Title XIX of the Social Security Act (the Act). States are also responsible for reporting Medicaid collections and overpayments on the Form CMS-64, including the federal share of any MLR remittances owed to CMS. On a quarterly basis CMS reviews each state's Form CMS-64 to ensure that the appropriate amounts are spent. These quarterly reviews are prioritized based on the areas that have the largest impact on federal funds, and enhanced oversight procedures are performed for the 20 states with the highest federal Medicaid expenditures. CMS uses a comprehensive internal review guide to ensure that the expenditure reports for all states are reviewed in a consistent manner, and the review guide is regularly updated to reflect programmatic changes. CMS also conducts periodic trainings to ensure that any updates made to the review guide are thoroughly communicated to the CMS staff responsible for performing the quarterly reviews. In addition, CMS provides guidance and technical assistance to states to assist them with their reporting and to ensure that they have the mechanisms and systems in place to track and report expenditures accurately.

CMS is committed to strengthening the monitoring and oversight of Medicaid managed care programs. CMS also takes seriously its responsibilities to protect taxpayer funds by conducting thorough oversight of Medicaid. CMS looks forward to continuing to engage and collaborate with states in these areas.

The OIG's recommendations and CMS's responses are below.

OIG Recommendation 1

Obtain the Federal shares of MLR remittances from States that failed to return these amounts to CMS for the 2017-2018 and 2018-2019 MLR reporting years.

CMS Response

CMS concurs with this recommendation. CMS will continue outreach to the three remaining states to confirm that they returned the federal share of MLR remittance amounts owed for the 2017-2018 and/or 2018-2019 MLR reporting years. If CMS finds that any of the three states did not return the federal share of their MLR remittances, appropriate action will be taken.

¹ CMS, Medical Loss Ratio (MLR) Requirements Related to Third-Party Vendors, 2019, Accessed at: <https://www.medicaid.gov/sites/default/files/Federal-Policy-Guidance/Downloads/cib051519.pdf>

² CMS, Medicaid Managed Care Frequently Asked Questions (FAQs) – Medical Loss Ratio, 2020, Accessed at: https://www.medicaid.gov/sites/default/files/Federal-Policy-Guidance/Downloads/cib060520_new.pdf

³ CMS, Medical Loss Ratio (MLR) Monitoring, Reporting, and Oversight: A Toolkit for States to Ensure Complete and Accurate MLR Reporting, 2024, Accessed at: <https://www.medicaid.gov/medicaid/managed-care/downloads/mlr-toolkit-sep-2024.pdf>

⁴ CMS, Medicaid and CHIP Managed Care Reporting, Accessed at: <https://www.medicaid.gov/medicaid/managed-care/guidance/medicaid-and-chip-managed-care-reporting/index.html#MLR>

⁵ CMS, MLR Summary Reports, 2024, Accessed at: <https://data.medicaid.gov/dataset/743f9f04-4473-41e2-9da2-9a89db65ee55>

OIG Recommendation 2

Develop the capacity to systematically track and readily determine the amounts of the Federal shares of MLR remittances that States return to CMS.

CMS Response

CMS concurs with this recommendation. CMS will assess how to best identify and track the federal shares of MLR remittances that states are required to return to CMS. CMS will take action, as appropriate, to develop the capacity to systematically identify and track this information moving forward. CMS will also work to ensure that staff receive guidance and training on how to properly document any MLR remittance returns identified during the quarterly Form CMS-64 review.

OIG Recommendation 3

Improve internal communication to confirm that States return the Federal shares of the MLR remittance amounts reported annually to CMS.

CMS Response

CMS concurs with this recommendation. CMS has already begun taking steps to improve internal communications, and will continue to work towards establishing routine information sharing amongst the staff responsible for receiving different information from states about their MLR remittances to ensure states return the federal share of MLR remittance amounts as appropriate.

OIG Recommendation 4

Routinely confirm that States returned the Federal shares of State-reported MLR remittance amounts.

CMS Response

CMS concurs with this recommendation. As noted above, CMS will assess how to best identify and track the federal shares of MLR remittances that states are required to return to CMS, and will take action, as appropriate, to develop the capacity to systematically identify and track this information moving forward. CMS will use the information obtained through this process to routinely confirm that States returned the federal shares of State-reported MLR remittance amounts.

OIG Recommendation 5

Develop procedures to track (a) when each State is expected to return the required Federal shares of MLR remittances owed and (b) whether States have returned the Federal shares timely.

CMS Response

CMS concurs with this recommendation. As noted in the OIG's report, states have the flexibility to set the timelines for when their plans' MLR remittances are due. CMS will assess how to best determine when states are expected to return the required federal shares of MLR remittances owed, as well as whether states have returned the federal shares timely.

ENDNOTES

¹ A capitation payment is a set per member per month payment States provide contracted managed care plans to cover a defined benefit package of services for each enrollee regardless of whether the enrollee uses any covered services each month.

² 42 CFR § 438.8(a), (d), (e), and (f). According to 42 CFR § 438.8(e)(1), the MLR numerator includes expenditures for fraud prevention activities. However, this data element is not yet part of the Medicaid MLR calculation. This data element will be added to the MLR calculation if and when the private market regulations define these types of expenses (85 Fed. Reg. 72754, 72792 (November 13, 2020)).

³ 42 CFR § 438.8(c). States can set a minimum MLR above 85 percent.

⁴ 42 CFR § 438.8(j).

⁵ KFF and Health Management Associates, “As Pandemic-Era Policies End, Medicaid Programs Focus on Enrollee Access and Reducing Health Disparities Amid Future Uncertainties.” Accessed on March 17, 2025. The 36 States that required minimum MLRs with remittances include the District of Columbia, but no information is included for Florida because it did not respond to the survey.

⁶ 42 CFR § 438.74(b)(2).

⁷ 42 CFR § 438.8(j) and (k)(1)(x).

⁸ 42 CFR § 438.74(a).

⁹ 42 CFR § 438.74(b). To determine the amount of the Federal share of an MLR remittance, States must take into account applicable differences in the Federal matching rate.

¹⁰ CMS, “[The State Medicaid Manual | CMS](#)” § 2500.6(B), accessed on October 31, 2024, and “Financial Review Guide for the Quarterly Medicaid Statement of Expenditures (Form CMS-64 Report),” January 2022.

¹¹ 87 Fed. Reg. 74429-74431 (December 5, 2022). This range, in effect through at least September 2024, is based on the Federal medical assistance percentages and does not include any enhanced percentages that States may claim for covering certain populations (e.g., Children’s Health Insurance Program).

¹² CMS, “[The State Medicaid Manual | CMS](#)” § 2500(A)(1). Accessed on September 4, 2024.

¹³ CMS, “Financial Review Guide for the Quarterly Medicaid Statement of Expenditures (Form CMS-64 Report),” January 2022.

¹⁴ Ibid.

¹⁵ CMS, “[State Budget & Expenditure Reporting for Medicaid and CHIP](#).” Accessed on May 1, 2024.

¹⁶ 81 Fed. Reg. 27498 (May 6, 2016).

¹⁷ CMS, “MLR Analytic File Data Dictionary, Version 1.3,” November 2023. For this multi-step analysis, CMS’s policy staff determine (1) whether and for which plans a State sets minimum MLRs; (2) whether the State required these plans to refund MLR remittances; (3) whether any of the plans with an MLR remittance

requirement failed to meet the minimum MLR; and (4) whether the State reported MLR remittances owed for each plan, as applicable.

¹⁸ CMS, “CMS-64 Step A-21(A): Managed Care Risk Mitigation – Medical Loss Ratio (MLR),” received by OIG March 2024.

¹⁹ 42 CFR § 430.42.

²⁰ OIG, [*Nationwide, Almost All Medicaid Managed Care Plans Achieved Their Medical Loss Ratio Targets \(OEI-03-20-00230\)*](#), August 2021.

²¹ OIG, [*CMS Has Opportunities to Strengthen States’ Oversight of Medicaid Managed Care Plans’ Reporting of Medical Loss Ratios \(OEI-03-20-00231\)*](#), September 2022.

²² OIG Work Plan, “[CMS’s Oversight of Federal Medical Loss Ratio Requirements in Medicaid Managed Care.](#)”

²³ OIG Work Plan, “[Medicaid Managed Care Organizations in States With Remittance Requirements.](#)”

²⁴ CMS, “[Medicaid Managed Care Frequently Asked Questions \(FAQs\) – Medical Loss Ratio](#),” June 2020. Accessed on September 10, 2024.

²⁵ Ibid.

²⁶ 42 CFR § 438.74(b) and 87 Fed. Reg. 74429-74431 (December 5, 2022). The Federal medical assistance percentage used to calculate the Federal share may not be less than 50 percent. We calculated the 16 States’ Federal shares by summing the MLR remittance amounts reported by each State and multiplying by 0.50.

²⁷ CMS, “[Medical Loss Ratio \(MLR\) Monitoring, Reporting, and Oversight: A Toolkit for States to Ensure Complete and Accurate MLR Reporting](#),” September 2024. Accessed on December 4, 2024.

²⁸ 42 CFR § 433.316.

²⁹ 42 CFR § 433.320.

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