

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
Dallas Regional Office
1301 Young Street, Suite 833
Dallas, Texas 75202



Division of Medicaid & Children's Health, Region VI

August 31, 2018

Becky Pasternik-Ikard
State Medicaid Director
2401 NW 23rd Street, Suite 1A
Oklahoma City, Oklahoma 73107

Dear Ms. Pasternik-Ikard:

This letter is notice of a disallowance in the amount of \$64,201,255 federal financial participation (FFP). This amount consists of Medicaid supplemental payments to Oklahoma University and Oklahoma State University under the SoonerCare Choice and Insure Oklahoma 1115(a) waiver demonstration that were not approved in accordance with Special Terms and Conditions of waiver demonstration for the period of January 1, 2017 through December 31, 2017. The Centers for Medicare & Medicaid Services (CMS) is disallowing FFP for these supplemental payments, because they were not authorized under the state's section 1115(a) demonstration waiver or state plan authority, as required at 42 Code of Federal Regulations (C.F.R.) § 430.10; 431.420 (a)(1).

This letter constitutes a notice of disallowance in the amount of \$64,201,255 FFP for expenditures claimed on the quarterly expenditure report (CMS-64) from the quarter ending March 31, 2017 through December 31, 2017. CMS issued a deferral for a total of \$32,934,127 FFP for supplemental payments claimed for the universities for the quarters ending September 30, 2017 and December 31, 2017 on December 11, 2017 and March 8, 2018. Please make a decreasing adjustment on line 10(b) of the next CMS 64 report in the amount of \$64,201,255 FFP. Since \$32,934,127 FFP has been previously deferred, that portion of the total line 10(b) adjustment will only be used for accounting purposes and will not be used in the computation of the grant award.

This disallowance is my final decision. Under section 1116(e) of the Social Security Act, the state has the opportunity either to request reconsideration of this disallowance from the Secretary or to appeal this disallowance to the Departmental Appeals Board. This decision shall be the final decision of the Department unless, within 60 calendar days after the State receives this decision, the State delivers or mails (the state should use registered or certified mail to establish the date) a written request of reconsideration to the Secretary or a written notice of appeal to the Departmental Appeals Board.

Written requests for reconsideration should be delivered or mailed to the CMS Associate Regional Administrator at 1301 Young St. Suite 833, Dallas TX 75202 (the state should use registered or certified mail to establish the date). Requests for reconsideration by the Secretary should include: (1) A copy of the disallowance letter; (2) A statement of the amount in dispute;

(3) A brief statement of why the disallowance should be reversed or revised, including any information to support the state's position with respect to each issue; (4) additional information regarding factual matters or policy considerations; and (5) a statement of your intent to return or retain the funds. See 42 C.F.R. § 430.42(b)(2) published at 77 Fed. Reg. 31499, 31508 (May 29, 2012). The state should include in its request for reconsideration all of the information it believes is necessary for the Secretary's review of its request. If the State requests reconsideration from the Secretary and receives an unfavorable reconsideration of the disallowance from the Secretary, it may appeal the disallowance to the Departmental Appeals Board within 60 calendar days after the date that the State receives the unfavorable reconsideration. Written requests for appeal should be delivered or mailed to:

U.S. Dept. of Health and Human Services
Departmental Appeals Board, MS 6127
Appellate Division
330 Independence Avenue, S.W.
Cohen Building, Room G-644
Washington, D.C. 20201

The state may appeal the disallowance to the DAB within 60 calendar days of the date you received this letter or, if applicable, within 60 calendar days after the date that the State receives the unfavorable reconsideration. If the state chooses to appeal this disallowance, written appeals request must include: (1) a copy of this disallowance decision; (2) a copy of the reconsideration decision, if applicable; (3) a note of its intention to appeal the disallowance; (4) the amount in dispute; and (5) a brief statement of why the disallowance is wrong. In addition, the state should reference Disallowance Number OK-2018-001-MAP in the appeal request. The Board will notify the state of further procedures. Please also send a copy of your appeal to my attention at the following address Mr. Bill Brooks, Associate Regional Administrator; Centers for Medicare & Medicaid Services, Region 6; 1301 Young Street, Room 833; Dallas, TX 75202.

A notice of appeal may also be submitted to the DAB by mail, by facsimile (fax) if under 10 pages, or electronically using the DAB's electronic filing system (DAB E-File). Submissions are considered made on the date they are postmarked, sent by certified or registered mail, deposited with a commercial mail delivery service, faxed (where permitted), or successfully submitted via DAB E-File. To use DAB E-File to submit your notice of appeal, you or your representative must first become a registered user by clicking "Register" at the bottom of the DAB E-File homepage, <https://dab/efile.hhs.gov/>; entering the information requested on the "Register New Account" form; and clicking the "Register Account" button. Once registered, you or your representative should login to DAB E-File using the e-mail address and password provided during registration; click "File New Appeal" on the menu; click the "Appellate" button; and provide and upload the requested information and documents on the "File New Appeal-Appellate Division" form. Detailed instructions can be found on the DAB E-File homepage.

If the State appeals the disallowance under section 1116(d) of the Act, section 1903(d) of the Act provides you the option of retaining the funds that was previously paid to the State and that is now being disallowed by this notice, pending a final administrative decision. If the final decision upholds the disallowance and you elect to retain the funds during the appeals process, the proper amount of the disallowance plus interest computed pursuant to section 1903(d)(5) of the Act will be offset in a subsequent grant award.

You may exercise your option to retain the disputed funds by notifying me, in writing, no later than 60 days after the date this letter is received. In the absence of notification that the State elects to retain the funds, the Secretary will recover \$31,267,128 FFP pending the final decision of the Departmental Appeals Board.

If you have any questions, please contact John Castro at 214-767-6493 or Michael Morales at 214-767-2216 or their respective email addresses at john.castro@cms.hhs.gov and michael.morales@cms.hhs.gov .

Sincerely,

A handwritten signature in black ink that reads "Bill Brooks". The signature is written in a cursive, slightly slanted style.

Bill Brooks
Associate Regional Administrator
Division of Medicaid and Children's Health

cc via Email: