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Statement of
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Human Resources Division
before the
Subcommittee on Monopoly
Select Committee on Small Business
United States Senate
on
Procurement of Eyeglasses and
Other Medicaid Supplies and Services

Mr. Chairman and Members of the Subcommittee:

We are pleased to appear here today to discuss our review of the procurement of eyeglasses and other Medicaid supplies and services. We are making a review of the practices of four States--California, Idaho, Oregon, and Washington--for obtaining eyeglasses, hearing aids, oxygen, and durable medical equipment for Medicaid recipients. We have also obtained information on New York City's attempt to contract for the purchase of Medicaid clinical laboratory services.

Since our review is not yet complete, our comments today will be limited primarily to the purchase of eyeglasses for Medicaid recipients and New York City's attempt to contract for the purchase of Medicaid clinical laboratory services.

Medicaid--authorized by Title XIX of the Social Security Act, as amended--is a grant-in-aid program under which the Federal Government pays part of the costs incurred by States in providing medical supplies and services to persons unable to pay for such care. The Federal Government pays from 50 to 78 percent of the costs incurred by States in providing medical supplies and services under the Medicaid program.

The Health Care Financing Administration of the Department of Health, Education, and Welfare (HEW) administers Medicaid at the Federal level. The individual States are responsible for administering their individual Medicaid programs.

Under the Medicaid program, reimbursement procedures for eyeglasses and other supplies and services are set forth in the individual State plans. Payments for such items are generally limited to the vendor's usual and customary charges. In some States, these charges are also subject to pre-established State maximum prices. Participating vendors agree that the amount paid by Medicaid will be accepted as payment in full.

LIMITED MEDICAID COVERAGE OF MEDICAL SUPPLIES AND SERVICES

The Social Security Act requires that Medicaid services be provided to persons receiving federally supported financial assistance--generally known as the categorically needy. In

addition, States can cover other persons, generally known as the medically needy, whose incomes and other resources exceed State or Federal requirements to qualify for public assistance but which are not enough to pay for necessary medical care.

The Social Security Act requires that State Medicaid programs provide certain basic services including laboratory and X-ray services. However, while eyeglasses and hearing aids must be provided to children, they are optional services for other Medicaid recipients which may be provided if a State so chooses.

Thirty-five States and jurisdictions provide eyeglasses to Medicaid recipients, but 10 of these States do not provide eyeglasses to the medically needy. Seventeen States and Puerto Rico do not provide eyeglasses to Medicaid recipients other than children.

Twenty-three States provide hearing aids to adults, but nine of these do not provide aids to the medically needy. Twenty-six States and the District of Columbia do not provide hearing aids to adults.

Forty-two States and jurisdictions provide durable medical equipment such as wheelchairs, crutches, and canes, to Medicaid recipients, but 15 of these States do not provide durable medical equipment to the medically needy. Ten States and

Puerto Rico do not provide durable medical equipment under their Medicaid programs.

To illustrate the differences in State practices, California and Washington provide eyeglasses, hearing aids, and durable medical equipment to both the categorically and medically needy, while Oregon provides such services only to the categorically needy, and Idaho provides eyeglasses and hearing aids only to eligible children.

STATE PRACTICES FOR PURCHASING EYEGLASSES

California

The California State Department of Health, Medi-Cal Division, administers the State's Medicaid program. Reimbursements for optometric services are based on the State's maximum reimbursement rates or the provider's usual and customary charge, whichever is lower. The Rates and Fees Section of the Department of Health establishes the maximum reimbursement rates for medical services. In addition to material costs, the maximum allowances include services such as fitting, adjusting, and followup visits.

The maximum reimbursement rates are based on a 1975 study by the Rates and Fees Section of material and service cost data provided by opticians and optometrists. The cost data obtained in the study was used to determine the proposed payment level.

The 50th percentile of the reported usual and customary charges was used to establish the payment level for lenses. The State determined that the 50th percentile would cover the costs reported by most optometrists and provide an adequate profit.

The maximum payment level for a single vision glass lens ranged from $12.30 to $37.75, depending on the type and strength of the lens. These prices include both provider services and material. For example, the $12.30 lens price includes $5.41 for material and $6.89 for provider services.

The reimbursement rate for frames was set at $14, at the 28th percentile. The State felt that an adequate number of durable and serviceable plastic frames were available at a maximum price of $14 which includes $8 for frames and $6 for provider services.

During calendar year 1976, California paid about $7,246,000 for the material cost of eyeglass lenses and frames under the Medicaid program. During 1976, California's average material price was $5.45 for one single vision lens, $10.16 for one bifocal lens, and $7.91 for frames.

Idaho

The Idaho Department of Health and Welfare, Bureau of Medical Assistance administers the State's Medicaid program. Payments for eyeglasses are limited to $20 for frames, $22 for

a pair of single vision lenses, and $25 for a pair of bifocal lenses, or the provider's usual and customary charge, whichever is lower. Accordingly, the maximum price for single vision eyeglass lenses and frames is $42. The Chief of the Bureau of Medical Assistance advised us that the maximums were established by the Bureau prior to 1974 based on a survey of Medicaid prices being paid in nearby States.

During calendar year 1976, Idaho paid $76,712 for new eyeglasses. The State of Idaho's cost reports do not separate eyeglass costs by lenses or frames.

Oregon

Oregon's Department of Human Resources administers the State's Medicaid program through its Public Welfare Division. The Medical Assistance Unit of the Division establishes maximum fee schedules for eyeglasses.

The Medical Assistance Unit reviewed the published prices of large optical firms to establish the maximum allowable rates for eyeglass frames and lenses. The maximum rate was set based on the highest published prices plus an allowance for postage.

Providers are limited to the lesser of their usual and customary charges or the maximum allowable as payment in full for goods and services provided.

The maximum allowable cost for one single vision lens ranges between $4.90 and $11.45. The maximum allowable cost of frames is $8.50. According to the State's optometric consultant, this maximum charge limits the number of frame styles available to about 10, most of which are plastic.

A maximum dispensing fee of $3.95 per single vision lens was established effective July 1, 1976, as a result of a fee survey conducted by the Oregon Optometric Association.

During calendar year 1976, Oregon spent $283,632 for eyeglass lenses and frames under the Medicaid program. The average cost for one single vision lens was $5.30, for one bifocal lens, $11.31, and frames, $8.41.

Washington

The State of Washington Department of Social and Health Services administers that State's Medicaid program. In July 1975, Washington requested bids from optical suppliers to provide eyeglass lenses and frames for the State Medicaid program and the State Vocational Rehabilitation program. Effective October 1, 1975, Bausch and Lomb began supplying eyeglass lenses and frames for these programs. Under the contract, Bausch and Lomb provides frames manufactured by two other companies as well as its own to the State.

The contract provides single vision, bifocal, and trifocal corrected curved white plastic or impact resistant glass dress eyewear mounted in approved frames. Three styles each of dress frames for men, women, boys, and girls are provided making a total of 12 dress frame styles. In addition, occupational protective lenses and frames are available for men and women. The contract requires that a suitable case be included.

From October 1975 through June 1976, the contractor provided two single vision lenses for $6.35, two bifocal lenses for $14.35, and frames for prices ranging from $2.60 to $5.05. From July 1976 through June 1977, the contract cost of two single vision lenses rose to $7.10. The contractor provides the eyeglasses to providers who are willing to participate in the Medicaid program for a maximum dispensing fee of $12.30.

For the year October 1975 through September 1976, Washington spent $362,292 for eyeglasses under this contract. The State estimates that the annual saving was about $96,000 compared to the State's prior method of purchasing eyeglasses at providers' usual and customary charges subject to maximum prices established by the State.

POTENTIAL SAVINGS THROUGH CONTRACT PURCHASING OF EYEGLASSES

Washington paid $6.35 for a pair of single vision lenses during the period January through June 1976 and $7.10 during the

period July through December 1976 as compared to prices of $10.60 and $10.90 which Oregon and California, respectively, paid during calendar year 1976.

During calendar year 1976, Washington paid from $2.60 to $5.05 for frames, as opposed to $7.91 and $8.41 paid by California and Oregon, respectively.

California could have saved about $3.4 million during 1976 if it had purchased eyeglasses at the rates paid by Washington. Likewise, Oregon could have saved about $114,000 if it had purchased eyeglasses at the rates paid by Washington.

ADDITIONAL MEDICAID SAVINGS POSSIBLE

Although our review of other Medicaid supplies is not complete, we have observed other potential savings in the procurement of hearing aids, oxygen, and durable medical equipment.

None of the four States reviewed purchased hearing aids for Medicaid recipients on a Statewide competitive contract basis. Washington pays 80 percent of the retail price of hearing aids up to $325 based on 1972 agreements with hearing aid dealers. In contrast, Oregon has recently started purchasing some hearing aids for the Medicaid program under price agreements negotiated with various providers by the Oregon Department of General Services. Under these price agreements, substantial savings over the retail prices of these aids can

be realized. For example, during February 1977 a Portland, Oregon, Public Welfare Office decided to purchase a hearing aid for $162 under their State price agreements instead of paying a local dealer $375 for the same hearing aid.

Washington contracts for the purchase of oxygen for Medicaid recipients at from $3.10 to $4.30 per 100 cubic feet depending on the location. By contrast, California purchases oxygen at the providers' usual and customary charges up to a maximum of $14.35 for 244 to 275 cubic feet, or about $5.22 to $5.88 per 100 cubic feet.

In December 1976, California purchased 4,811 cylinders, ranging from 244 to 275 cubic feet of oxygen at an average cost of $14.03. The cost of 275 cubic feet of oxygen under the Washington contract would range from $8.53 to $11.83. The Washington contractor also has offices in the State of Oregon and charges the Oregon Medicaid program, on a non-contractual basis, $17 for 244 cubic feet of oxygen.

Washington purchases most of its durable medical equipment and lends it to program beneficiaries but retains title to it. The beneficiaries are required to return the equipment to a pool when they no longer need it. Washington Medicaid officials advised us that purchase discounts of as much as 20 percent from manufacturers' suggested list prices

had been obtained from large suppliers on purchases of durable medical equipment. For example, Washington is paying $264.35 for a wheelchair, which lists for $311, and which must be returned to the State for reissue. California on the other hand, gives the wheelchair to the recipient and, in many cases is paying the manufacturer's list price.

PROPOSED NEW YORK CITY CONTRACT
FOR MEDICAID LABORATORY SERVICES

New York City officials, interested in better cost control and dissatisfied with the quality of work performed by laboratories under the Medicaid program, attempted to contract for laboratory services.

In April 1975, the city advertised for bids for its Medicaid laboratory services. Potential bidders were invited to submit bids to service any or all of New York City's five boroughs. Successful bidders, however, could be awarded no more than one borough plus the borough of Staten Island. A sequential system of bid openings was designed based on the decreasing order of each borough's Medicaid population. If bidders were awarded one borough, they would become ineligible for further awards, except for Staten Island although they may have been low bidder. The intention was to maximize laboratory participation in the award process. Because of its low Medicaid population, the borough of Staten Island was to be awarded last and to the lowest bidder, regardless of prior awards.

The bidders were required to submit the bid in two parts--a maximum aggregate fee and a unit price for each test. The maximum aggregate fee represented the fixed ceiling price for which the contractor agreed to provide all clinical laboratory services requested within the designated borough during the stipulated time period. This amount would be the basis for the contract award.

A contract was to run for 3 years with a safety clause which automatically increased the maximum aggregate bid on a prorated basis to cover future increases in the Medicaid population. This maximum aggregate price is significant, especially in light of the city's expenditures for laboratory services which rose from $3.7 million in 1970 to $10.7 million in 1975.

The unit price was the single fixed charge for any laboratory test processed, regardless of the cost of a particular test. This was important because actual reimbursement was to be limited to the unit price times the actual number of tests performed, up to the maximum aggregate bid.

The aggregate prices obtained by the city for its five boroughs totaled $5.7 million with unit prices varying from $0.89 to $4.00. This solicitation, had it been consummated, would have represented about a $5 million annual savings.

This proposed contracting procedure represented not only a potential cost savings but also provided for more expeditious testing, increased quality control, and a computerized record of services provided to each patient and ordered by each physician.

A coalition of clinical laboratories sought a Federal court injunction preventing the award of such contracts on the grounds that the city proposal would impair a Medicaid recipient's right under Medicaid law to freedom of choice to choose a clinical laboratory.

The city contended that no patient's freedom of choice was involved since it was the attending physician who traditionally made this decision.

In August 1975, the court enjoined New York City from awarding contracts for all the city's clinical laboratory services. However, it permitted the city to award a contract in one of the city's five boroughs. As of April 1977, a contract had not been awarded.

The court stated that in the future it would address the question of whether the statutory freedom of choice requirement is applicable to laboratory services.

Proposed legislation, S. 705, was introduced on February 10, 1977, which would amend the Social Security Act to permit competitive bidding for laboratory services.

HEW ADMINISTRATION

The 1972 Amendments to the Social Security Act provided that reasonable charges for Medicaid medical supplies, equipment, and services which do not differ significantly in quality from one supplier to another will be limited to the lowest charge levels consistently and widely available within a geographic area. In January 1977, HEW published draft regulations to implement the Medicaid reasonable charge requirement.

The draft regulations provide that when the quality of medical supplies, equipment, and services do not vary significantly from one supplier to another, reimbursement will be based on the lowest charge level at which these items are generally available in a locality.

While the lowest charge concept should help to reduce the prices being paid by Medicaid, it does not insure that the lowest possible price is being paid. In our opinion, agreements with suppliers--through competitive bids or negotiations--would provide greater assurance.

Contracting for eyeglasses, hearing aids, and durable medical equipment at reduced prices is practiced by several Federal agencies, including the Department of Defense and the Veterans Administration.

On September 29, 1976, HEW awarded a contract to the National Institute for Advanced Studies for the evaluation of selected Medicaid services reimbursement practices and policies--hearing aids, eyeglasses, clinical laboratory services, and Health Maintenance Organizations. In May 1977, the Institute issued a report entitled, "Alternative Reimbursement Approaches for Eyeglasses and Implications for Medicaid Policy," which pointed out the benefits of the Washington eyeglass contract in terms of saving money and guaranteeing quality. In May 1977, the Institute also issued a report which presented alternate reimbursement approaches for Medicaid hearing aids.

NEED FOR LEGISLATIVE CLARIFICATION

The Social Security Act (42 U.S.C. Section 1396a(a)(23)) provides

> "* * * that any individual eligible for medical assistance (including drugs) may obtain such assistance from any institution, agency, community pharmacy, or person qualified to perform the service or services required * * * who undertakes to provide him such services * * *."

Both the House and Senate reports accompanying H.R. 12080 which added this section state that this provision was

included in order to provide Medicaid recipients with freedom in their choice of medical institution or medical practitioner.

Our reviews have indicated that past efforts by certain States to minimize Medicaid procurement costs have raised the question of whether such practices are in conflict with the freedom-of-choice provisions. For example, HEW filed a friend of the court brief in the New York City laboratory case. In its brief, HEW stated that:

> "* * * in light of the clear wording of Section 1396a(a)(23) itself and HEW's consistent construction that the provision encompasses freedom of choice as to all providers of services, including laboratories, the Secretary submits that the New York proposal, which would effectively end a recipient's freedom of choice in obtaining laboratory services, is contrary to federal law."

The HEW brief went on to state that the New York City laboratory project might be acceptable as either an experimental, pilot, or demonstration project for a limited duration; or as a non-exclusive contract with a particular laboratory which would permit those Medicaid recipients wishing to choose a different qualified laboratory if that laboratory would perform the medical services at the same fee.

The HEW brief also noted that:

"* * * as practical matter most Medicaid patients do not make a meaningful choice as to which laboratory is to perform their laboratory tests but as a normal practice simply accept the referral of their doctor."

As another example, on May 12, 1972, we issued a report regarding durable medical equipment in which we discussed the State of Washington's practice of purchasing and pooling this equipment under its Medicaid program. The use of an equipment pool appeared to HEW to conflict with the freedom-of-choice provision. By letter dated January 26, 1972, HEW's General Counsel stated that HEW believed Washington's practice was contrary to Federal law and regulations.

Regarding contracting for other Medicaid supplies, it appears to us that the Social Security Act permits States to contract for the purchase of eyeglasses, hearing aids, and oxygen. However, the issue is not clear-cut since by the terms of the contract for hearing aids and oxygen, program beneficiaries may not have a "free" choice in the selection of the providers.

In summary, we believe that the competitive bidding and equipment pooling practices of Washington represent economical methods which can help contain costs and assure optimum use of

available resources. The potential savings to both the Federal and State Governments through contracting for the purchase of certain Medicaid supplies and services is substantial. However, because such contracting might conflict with the legislative provision concerning freedom of choice, the Congress should clarify its intent in this regard.

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Mr. Chairman, this concludes my statement. We shall be happy to answer any questions that you or other members of the Subcommittee might have.