

**NEW YORK**  
*state department of*  
**HEALTH**

Nirav R. Shah, M.D., M.P.H.  
Commissioner

Sue Kelly  
Executive Deputy Commissioner

October 3, 2013

Hon. Thomas P. DiNapoli  
Comptroller  
NYS Office of the State Comptroller  
110 State Street  
Albany, New York 12236

Dear Comptroller DiNapoli:

Pursuant to the provisions of Section 170 of New York State Executive Law, I hereby transmit to you a copy of the New York State Department of Health's comments related to the Office of the State Comptroller's final audit report 2010-S-30 entitled, "Overpayments of Hospitals' Claims For Lengthy Acute Care Admissions."

Please feel free to contact James Clancy, Assistant Commissioner, Office of Governmental and External Affairs at (518) 473-1124 with any questions.

Sincerely,



Nirav R. Shah, M.D., M.P.H.  
Commissioner of Health

Enclosure

**Department of Health  
Comments on the  
Office of the State Comptroller's  
Final Audit Report 2010-S-30 entitled,  
Overpayments of Hospitals' Claims  
For Lengthy Acute Care Admissions**

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The following are the Department of Health's (Department) comments in response to the Office of the State Comptroller's (OSC) Final Audit Report 2010-S-30 entitled, "Overpayments of Hospitals' Claims for Lengthy Acute Care Admissions."

**Recommendation #1:**

Recover the \$7.8 million in inappropriate payments identified in this audit.

**Response #1:**

In the final report released by the OSC, the estimated savings associated with this audit was calculated to be \$7.8 Million. To date, Island Peer Review Organization (IPRO) has recouped 95.6% of this amount, and is continuing to process the remaining cases until the entire amount has been recouped.

**Recommendation #2:**

Formally notify hospitals of the correct way to bill inpatient claims for ALC.

**Response #2:**

The Department directed the Computer Science Center (CSC) to contact the ten hospitals and provide billing guidance as to the correct way to bill inpatient claims for ALC. This was accomplished between May 14, 2013 and May 17, 2013. In addition, the Department included an ALC billing guidance in the May 2013 Medicaid Update.

**Recommendation #3:**

Review additional claims at high risk of overpayment due to incorrect charges for acute care.

**Response #3:**

Pursuant to an agreement reached at the exit conference for this audit, the OSC has transmitted a second review sample of 300 claims consisting primarily of long stay claims. DOH has instructed IPRO to evaluate this sample and develop a plan to incorporate the review of these additional claims as part of its ongoing claim reviews. These additional reviews are being conducted during the current contract year.

After reviewing the cases selected by the OSC, the sample size "to be reviewed" has been reduced to 206 cases (a decrease of 94 cases), for the following reasons:

1. 32 cases were excluded from the sample from Interfaith Medical Center. The hospital filed for bankruptcy protection in December 2012. Case review of these claims is precluded in this instance. Claims with dates of service prior to the filing date are protected under the bankruptcy filing from future review as (a) the hospital is in financial distress, and (b) the timeline for DOH to petition the courts for outstanding claims (i.e. recoupments pending from prior reviews that have been stopped due to the bankruptcy filing) prevents future/on-going review of protected claims. In addition, there has also been the possibility that the institution may be closing or be put under different management, which may limit liability for past obligations under the previous management.
2. 29 cases were excluded from the sample from St. Vincent's Hospital (Manhattan). The hospital closed in April 2010. Case review of these claims is precluded in this instance.
3. 8 cases were excluded from the sample from St. Vincent's Hospital (Westchester). The hospital was sold in November 2010. Case review of these claims is precluded in this instance.
4. 25 cases were previously reviewed by IPRO. All 25 cases reviewed were associated with Diagnostic Related Group (DRG)-paid claims. No further review is needed.

The timeline for review of the 206 cases is as follows:

1. The sample has been put into the review schedule and it is anticipated that the first-level nurse reviews will be completed by the end of October 2013.
2. Subsequent to that first-level nurse review, any cases with a potential finding will follow the regular, multi-level physician review processes.
3. IPRO will provide an update on the initial findings 30-60 days after the completion of the first-level nurse reviews.

Upon completion of the review and processing of the OSC sample claims, IPRO has been instructed to conduct an analysis of long stay per diem claims. Based on their findings, a determination will be made by the Department as to whether additional long stay claims will be added to the sampling plan as part of IPRO's ongoing claim review process.