

NEW YORK
state department of
HEALTH

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

Sue Kelly
Executive Deputy Commissioner

July 8, 2013

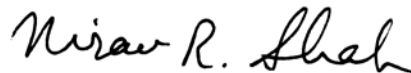
Mr. Brian Mason
Audit Director
NYS Office of the State Comptroller
110 State Street, 10th Floor
Albany, New York 12236

Dear Mr. Mason:

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-64 entitled, "Suspicious and Fraudulent Medicaid Payments to Affiliated Brooklyn Dentists".

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-64 Entitled
Suspicious and Fraudulent Medicaid
Payments to Affiliated Brooklyn Dentists**

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-64 entitled, "Suspicious and Fraudulent Medicaid Payments to Affiliated Brooklyn Dentists."

Recommendation #1:

Determine if additional recoveries should be made of claim payments made to the other affiliated dentists involved in the activities described in this report.

Response #1:

The affiliated providers involved in this report are currently under investigation. The Office of the Medicaid Inspector General (OMIG) will address any potential recoveries following the outcome of those investigations.

Recommendation #2:

Determine whether the dentists should be allowed to continue to participate in the Medicaid program. The assessment should also address the propriety of referring the dentists to the State Education Department's Office of Professions.

Response # 2:

One provider had been referred by OMIG to the Attorney General's Medicaid Fraud Control Unit (MFCU) prior to the OSC Audit. This provider has since been arrested, pled guilty to healthcare fraud, ordered to make restitution in the amount of \$595,896 and has been excluded from participation in the Medicaid program effective February 2013. A participating dental group, owned and operating by the same dentist, was also excluded from the Medicaid program at the same time. A settlement was reached wherein the group and owner agreed to make restitution to the Medicaid program for \$85,440.

Additionally, four dentists are currently on the MFCU Abeyance list, and 100% of their payments are being withheld. One of these providers voluntarily withdrew from the Medicaid program as a participating provider effective August 2011. Another one of these providers, who was referred as a result of an OMIG initiated investigation, appears to no longer be practicing Dentistry as his license expired in June 2012. He was terminated from Medicaid as a participating provider in June 2012. For the remaining two dentists, upon completion of

MFCU's investigation, their continued participation in the Medicaid program will be thoroughly evaluated.

Recommendation #3:

Actively monitor the claims of the dentists identified in this report. Deny or pend claims for excessive number of services (particularly within certain time intervals).

Response # 3:

While an active MFCU investigation is ongoing, the OMIG would not place a provider on active prepayment review unless requested to do so by MFCU.

Recommendation #4:

Direct the dentists to cease improper recipient solicitation practices. Notify the dentists of the regulation that prohibit certain practices to solicit recipients.

Response #4:

The OMIG has conducted surveillance activities of some of the providers' office locations and nothing was observed that would indicate the providers were engaging in the improper solicitation of recipients.

Recommendation #5:

Inspect the Broadway and Remsen office locations for unsanitary conditions and take appropriate actions.

Response #5:

The OMIG conducted several Credential Verification Reviews and on-site inspections at the Broadway and Remsen office locations. The OMIG determined that each location appeared to have several health and safety issues and consulted with the New York City Department of Health.

When the OMIG attempted to conduct a follow-up inspection at the Broadway office, the office was closed and a sign was posted indicating the office had moved. In addition, the OMIG contacted the Remsen office and the person answering the phone stated the provider no longer accepted Medicaid. There haven't been any Medicaid billings since 2011.