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January 10, 2013

Nirav R. Shah, M.D., M.P.H.
Commissioner
NYS Department of Health
Corning Tower Building
Empire State Plaza
Albany, New York 12237

Re: Monitoring of Medicaid Payments for
Nursing Home Bed Reserve Days
Report 2012-F-28

Dear Dr. Shah:

Pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law, we have followed up on the actions taken by officials of the Department of Health (Department) to implement the recommendations contained in our audit report, *Monitoring of Medicaid Payments for Nursing Home Bed Reserve Days* (Report 2010-S-21).

Background, Scope and Objective

The Department of Health (Department) administers the New York State Medicaid program, including the processing of Medicaid claims for payments to skilled nursing facilities (nursing homes). When a Medicaid-supported nursing home resident leaves his/her bed for inpatient hospital care, the nursing home is required to keep the resident's bed available (or reserved) until the resident is ready to return. At the time of our audit, nursing homes were required to reserve a resident's bed for a maximum of 20 days. If a nursing home had 95 percent or more of its beds filled, Medicaid paid the home for up to 20 days at the home's standard per diem rate to reserve the bed. During the five-year period ended March 31, 2010, Medicaid paid nursing homes about \$457 million for nearly 527,000 bed reserve day claims. The Department's automated eMedNY system processes Medicaid claims and payments.

Our initial audit report was issued on December 9, 2010. The objectives of our audit were to determine if nursing home claims for hospital bed reserve days were appropriate, and if not, the extent to which nursing home claims exceeded the bed reserve day limits and Medicaid overpayments were made. During the five-year audit period ending March 31, 2010, our audit

determined Medicaid paid over \$28 million for bed reserve claims that exceeded the 20-day limit in effect at that time. However, we found that many of these claims were miscoded and should have been billed as standard care because the residents were no longer hospitalized (and had returned to the nursing homes). In addition, because reimbursement rates for standard care and reserve care were the same during our audit period, we determined no significant overpayments were made.

Our initial audit also found that existing eMedNY controls would not prevent payments for bed reserve days beyond the statutory limits. Further, although three separate operating units (the Department's Office of Long Term Care, the Department's Office of Health Insurance Programs and the Office of the Medicaid Inspector General [OMIG]) had certain responsibilities for monitoring bed reserve payments, none were actively doing so. Moreover, in June 2010, statutory changes limited bed reserve claims to 14 days per year for an individual resident and the reimbursement rates for bed reserve days were reduced (to less than the amounts paid for standard care days). Thus, the implementation of our initial audit's recommendations became more important. The objective of our follow-up was to assess the extent of implementation, as of October 18, 2012, of the three recommendations included in our initial report.

Summary Conclusions and Status of Audit Recommendations

The Department made significant progress in addressing the issues identified in our initial report and implemented the report's three recommendations.

Follow-up Observations

Recommendation 1

Formally remind all nursing home providers to ensure that claims for standard nursing home per diems and bed reserve days for a hospital stay are coded correctly. If it is determined that such claims are not coded correctly, formally notify providers promptly.

Status - Implemented

Agency Action - The Department formally reminded nursing home officials statewide to ensure they properly code bed reserve days for hospital admissions by distributing multiple notices (including "Dear Administrator" letters) to them. These notices were also posted to the Department's Medicaid website. Additionally, OMIG officials informed nursing home providers of miscoded claims that were identified during the course of audits.

Recommendation 2

Develop and implement controls within the eMedNY system to prevent payments of claims for bed reserve days in excess of the prescribed limit.

Status - Implemented

Agency Action - The Department's Office of Health Insurance Programs and the Office of Long Term Care oversaw the development of eMedNY system edits to prevent payment of claims for bed reserve days in excess of the prescribed 14-day limit. These edits became effective April 3, 2012.

Recommendation 3

Ensure that the monitoring activities performed by the Department's various components are coordinated sufficiently to establish appropriate accountability over claims for bed reserve days.

Status - Implemented

Agency Action - In addition to the aforementioned eMedNY system edits, OMIG officials developed a standard audit protocol for reviews of the bed reserve program. As part of its 2012-13 work plan, the OMIG is reviewing bed reserve payments to determine whether nursing homes met the occupancy requirement (of 95 percent) to claim and receive such payments.

Major contributors to this report were Paul Alois, Theresa Podagrosi and Rebecca Tuczynski.

We thank the management and staff of the Department of Health for the courtesies and cooperation extended to our auditors during this review.

Very truly yours,

Dennis Buckley
Audit Manager

cc: Mr. James Cox, Medicaid Inspector General
Mr. Stephen Abbott, Department of Health
Mr. Thomas Lukacs, Division of the Budget