NEW YORK
state department of
HEALTH

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

Sue Kelly
Executive Deputy Commissioner

June 14, 2013

Dennis Buckley, Audit Manager
Office of the State Comptroller
Division of State Government Accountability
110 State Street, 11th Floor
Albany, New York 12236

Dear Mr. Buckley:

Enclosed are the Department of Health's comments on the Office of the State Comptroller's Follow-Up Report 2012-F-30 on Department actions relative to the recommendations contained in earlier OSC Report 2009-S-46 entitled, "Medicaid Payments for Excessive Dental Services."

Thank you for the opportunity to comment.

Sincerely,

Sue Kelly
Executive Deputy Commissioner

Enclosure

cc: Nirav R. Shah, M.D., M.P.H.
Jason A. Helgerson
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# Department of Health
# Comments on the
# Office of the State Comptroller's
# Follow Up Audit Report 2012-F-30 Entitled
# Medicaid Payments for Excessive Dental Services

The following are the Department of Health's (Department) comments in response to the Office of the State Comptroller's (OSC) Follow-up Report 2012-F-30 entitled, "Medicaid Payments for Excessive Dental Services."

**Recommendation #1:**

Modify the eMedNY edits for periodic oral evaluations, cleanings, and fluoride treatments, paid on a fee-for-service basis, to allow payment for these services only once in a six-month period, consistent with the provisions of the Dental Manual.

Status – Implemented

Agency Action – In May 2011, the Department modified the eMedNY edits for oral evaluations, cleanings, and fluoride treatments. These edits now limit Medicaid payments for these services to only once in a six-month period, consistent with the provisions of the Dental Manual.

**Response #1:**

The Department agrees this recommendation was implemented.

**Recommendation #2:**

Either modify the Medicaid Dispensing Validation System or establish a comparable mechanism to enable dental providers to determine whether recipients have met their service limits before services are performed and billed.

Status – Not Implemented

Agency Action – The Department did not modify the Medicaid Dispensing Validation System nor establish a comparable mechanism to enable a provider to check a recipient's claim history to determine if the recipient has met the dental program's service limits.

**Response #2:**

While the Department has not modified the Medicaid Dispensing Validation system to notify providers when a particular recipient had reached their service limit, OSC's recommendation has been addressed in part by the Department implementing "pay and report" edits that identify recipients who have exceeded certain service limits.

**Recommendation #3:**

Activate eMedNY edit controls to limit services by recipient (rather than by provider).

Status – Partially Implemented

Agency Action – The Department implemented eMedNY "pay and report" edits that identify and report recipients who exceed certain Medicaid dental service limits. Based on these edits, the Department provides reports of recipients who exceed the limits to the Office of the Medicaid Inspector General (OMIG) for review and recovery of improper claim payments. However, the pay and report edits do not prevent the payment of claims when recipients exceed service limits.

**Response #3:**

The Department acknowledges eMedNY edit controls to limit services by recipient have not been systematically implemented; however, the existence of the "pay and report" edits does reduce the risk of overpayment to the Department. The Department will investigate edit controls to limit services by recipient for dental services with the implementation of a new payment system which is projected for late 2014 to early 2015 (pending CMS approval).

**Recommendation #4:**

Establish edits for rate-based claims for dental procedures to ensure providers are paid only at the limits set forth in the Dental Manual.

Status – Not Implemented

Agency Action – At the time of our follow-up, the Department had not established edits for rate-based claims for dental services when a new Medicaid claims processing system is developed. The Department must first submit a draft RFP for a new claims processing system to the Centers for Medicare and Medicaid Services (CMS) for approval. If the CMS approval is obtained timely, Department officials anticipate a contract award for the new system by September 2013 and system implementations by May 2015.

Also, in recent years, the Department phased-in a new payment method for certain services (including dental services) based on the Ambulatory Patient Group (APG) concept. APG payments are based on factors such as the diagnosis, the procedures performed, and the amounts and types of resources used. According to officials, under the APG concept, the Department will be better able to design edits to avoid payments for excessive dental services.

**Response #4:**

Pursuant to statute, Medicaid covers medically necessary services. Services that are not medically necessary are not reimbursable. For practitioner services, the eMedNY payment system has the ability to apply pre-payment edits at the current procedural terminology (CPT) procedure code level (or, in the case of dental, current dental terminology (CDT) to insure that the services provided the patient are medically necessary and not excessive. Although eMedNY

does have the ability to edit institutional, e.g., APG clinic claims to a limited degree (e.g., prevent duplicate claims from being paid for same recipient, same provider, same date of service, as well as enforce service/payment limits for rehab and mental health services), it does not presently have the capability to edit claims at the procedure code level as is done with practitioner claims. The inability to do so may result in a provider incorrectly billing for excessive services. However, now that APG claims provide the Department and OMIG with detailed claim level information (e.g., CPT code line level information) the Department has a better opportunity to identify fraudulent or excessive services.

The Department is in the process of procuring a new fiscal intermediary for processing fee-for-service Medicaid claims. The Department will request provider and recipient level service limit capabilities for clinic APG claims be considered for inclusion into the new billing system to enhance pre-payment editing. Implementation of the new payment system is projected for late 2014 to early 2015 (pending CMS approval).

**Recommendation #5:**

Review the overpayments we identified and recover the excessive amounts paid, as appropriate. As priorities and resources permit, follow up on claim payments for excessive service to determine if certain providers have abused the Medicaid program. Take actions with such providers, as appropriate.

Status – Partially Implemented

Agency Action – In 2012, the OMIG developed its Preventive Services Dental Match Project (Project). The Project was designed to identify excessive payments for oral evaluations, cleanings, scaling and root planning, fluoride treatments, and dental sealants. OMIG will use Project tools to evaluate the claims identified in our audit and determine if recoveries are warranted. However, at the time of our follow-up, OMIG had not put the Project into operation. Therefore, the OMIG had not taken actions against any providers nor made any recoveries of the overpayments we identified.

**Response #5:**

The OMIG has developed a "Preventive Dental Match" that will identify and address the issue regarding excessive services. This match is tentatively scheduled to begin in late 2013 following two other dental services developed by staff. All matches are periodically re-run to ensure future instances are caught. Repeat providers are examined and recommended for additional action as necessary.

**Recommendation #6:**

Make a formal assessment of the level of the fee paid by New York's Medicaid program for routine dental services. Compare New York's fees with fees paid in other states and determine if adjustments are justified to achieve savings by lowering fees for certain procedures, such as evaluations and cleanings.

Status – Implemented

Agency Action – In 2011, the Department's Medicaid Redesign Team formally assessed all Medicaid dental fees. Based on its assessment, fees for several routine dental services were adjusted. For example, effective May 19, 2011 the Department reduced payments for evaluations (from $29 to $18.85) and adult cleanings (from $58 to $37.70). As a result of the fee reductions, Medicaid saved more than $11 million for routine dental services from May 19, 2011 through December 31, 2012.

**Response #6:**

The Department agrees this recommendation was implemented.