

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

Howard A. Zucker, M.D., J.D.  
Acting Commissioner of Health

Sue Kelly  
Executive Deputy Commissioner

July 1, 2014

Mr. Brian Mason  
Acting Assistant Comptroller  
New York State Office of the State Comptroller  
110 State Street, 10<sup>th</sup> 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 2012-S-160 entitled, "Improper Payments for Ancillary Services Provided During Hospital Inpatient Admissions."

Please feel free to contact James Clancy, Assistant Commissioner, Office of Governmental and External Affairs at (518) 474-2011 with any questions.

Sincerely,

*Howard Zucker M.D.*

Howard A. Zucker, M.D., J.D.  
Acting Commissioner of Health

Enclosure

**Department of Health  
Comments on the  
Office of the State Comptroller's  
Final Audit Report 2012-S-160 Entitled  
Improper Payments for Ancillary Services  
Provided During Hospital Inpatient Admissions**

---

The following are the Department of Health's (Department) comments in response to the Office of the State Comptroller's (OSC) Final Audit Report 2012-S-160 entitled, "Improper Payments for Ancillary Services Provided During Hospital Inpatient Admissions."

**Recommendation #1:**

Recover the Medicaid overpayments totaling \$1 million identified by eMedNY Edits 759 and 2063 and reported to the Department. Focus efforts on those providers who received the largest amounts of improper payments for ancillary services.

**Response #1:**

The Office of the Medicaid Inspector General (OMIG) did not rely on edits 759 and 2063 to identify possible inappropriate claims, as these edits do not take into consideration all of the exceptions that would allow appropriate billing of these services. Instead, the OMIG performed data analysis to identify potentially inappropriate services (Ordered Ambulatory, Clinic/Emergency Room (ER) and Transportation) rendered during an inpatient stay. After reviewing OSC's findings, the OMIG identified several issues which conflict with Medicaid billing policy regarding services provided during an inpatient stay. As these are recurring audits, the OMIG is very familiar with the Office of Health Insurance Programs (OHIP) policy and Medicaid regulations pertaining to services rendered during an inpatient stay.

The following bullets outline some of the issues identified with the OSC analysis:

- Evaluation and Management services - These are allowed.
- The Office of Mental Health (OMH)/ The Office of Alcoholism and Substance Abuse Services (OASAS) services - Certain criteria applied to these types of services in which they may be allowed during an inpatient stay.
- Some services were actually outside of the inpatient time frame – These are allowed.
- Services rendered on the date of discharge – These may be allowed.
- Federally Qualified Health Center (FQHC) designated facilities - In certain situations, it is appropriate for FQHC to bill clinic service during inpatient stay.
- Critical Care Hospitals - In certain situations, they are allowed to bill ancillary services during inpatient stay.
- Home Health - Service occurred on admit or discharge date, the claim is allowed.
- Surgical procedures - These are allowed.
- Mutual Care Home Health cases - Which may be billable for the recipient not in the hospital.

The OMIG routinely conducts audits on services (Ancillary, Clinic/ER and Transportation) provided during an inpatient stay. We are currently working on two audits which will recoup payments for these services rendered during an inpatient stay, both for Medicaid only and dual-eligible Medicaid recipients.

**Recommendation #2:**

Formally consider modifying existing eMedNY edits 759 and 2063 or implement new edits to detect and recover improper claim payments for ancillary services. Provide particular attention to edits that deny payments for ancillary services when eMedNY processes and pays inpatient hospital claims that coincide with the ancillary services in question.

**Response #2 and #5, same response for both recommendations:**

The Department acknowledges OSC's findings that eMedNY edits detected and denied most of the improper ancillary service claims inappropriately billed by Medicaid providers. This is evidenced by the fact that for the one year period ending March 31, 2013, in which \$3,194,736,748 was paid for inpatient claims, OSC identified only less than 1% (\$1,368,000) in potential overpayments. However, the Department acknowledges that improvements to eMedNY should be ongoing and prioritized based on the overall impact to the Medicaid program. Therefore, the Department will review edits 759 and 2063 to assess their ability to detect and deny inappropriate ancillary payments for Medicaid-only claims as well as Medicare/Medicaid crossover claims.

However, the Department will not be pursuing an eMedNY systems change at this time for the following reasons:

- OMIG has confirmed that they have a strong audit review protocol in place to identify and recoup, when appropriate, ancillary claims that are billed in addition to an inpatient stay.
- The potential overpayments on fee-for-service claims will continue to be mitigated with the ongoing transition of the Medicaid population into managed care, further limiting fee-for-service exposure.
- The Department is in the process of selecting a new claims processing contractor for fee-for-service claims. Even though the fiscal risk is relatively low given the overall scope of the Medicaid Program (\$1,000,000 dollars over an 18 month period, or \$55,000 per month), the Department will work with the new contractor to incorporate enhanced claims editing for ancillary services associated with hospital inpatient claims.

Moreover, Medicaid claims processed through New York's current Medicaid Management Information System, eMedNY, will be reduced dramatically over the next three years. The Department has established a goal of having all Medicaid enrollees served in care management by April 2016. This initiative, deemed *Care Management for All*, began in State Fiscal Year 11-12 with major changes to the State law. As a result of this initiative, fee-for-service spending will ultimately drop to only 15 percent of all Medicaid spending by 2016. The Department will continue to make eMedNY edits to correct issues during this transition where feasible, however,

it is anticipated that this transition will dramatically decrease the impact of eMedNY edit issues moving forward.

**Recommendation #3:**

Improve the coordination of eMedNY's identification of improper ancillary claim payments with the corresponding data analysis and recovery efforts of the OMIG. Ensure overpayments identified by eMedNY for ancillary services are recovered in a timely manner.

**Response #3:**

The OMIG's Business Intelligence Group routinely conducts system match audits that identify potential overlapping services (Ordered Ambulatory, Clinic/ER and Transportation) during an inpatient stay. Payment for these questionable services is recovered, unless the provider can justify the services. The OMIG is currently working on two audits that identify and recoup payments for these overlapping services both for Medicaid-only and dual-eligible Medicaid recipients. The OMIG will ensure that recoupment is made in a timely manner.

**Recommendation #4:**

Review and recover the Medicaid overpayments totaling \$368,000 for improper ancillary service claims for dual eligible recipients. Focus efforts on those providers who received the largest amounts of improper payments for ancillary services.

**Response #4:**

The OMIG performed data analysis to identify potentially inappropriate services (Ordered Ambulatory, Clinic/ER and Transportation) rendered during an inpatient stay. After reviewing OSC's findings, the OMIG identified several issues which conflict with Medicaid billing policy regarding services provided during an inpatient stay. As these are recurring audits, the OMIG is very familiar with OHIP's policy and Medicaid regulations pertaining to services rendered during an inpatient stay.

The OMIG routinely conducts audits on services provided during an inpatient stay. The OMIG is currently working on an audit which will recoup overpayments for these services for both Medicaid-only and dual-eligible Medicaid recipients.

**Recommendation #5:**

Formally consider modifying existing eMedNY edits or implement new ones that use information from Medicare crossover claims to detect improper ancillary service claims for dual eligible recipients.

**Response #5, See #2 above, Response to #2 and #5 combined**