

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

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

Sue Kelly  
Executive Deputy Commissioner

December 10, 2013

Ms. Andrea Inman, Audit Manager  
Office of the State Comptroller  
Division of State Government Accountability  
110 State Street - 11th Floor  
Albany, NY 12236-0001

Dear Ms. Inman:

Enclosed are the Department of Health's comments on the Office of the State Comptroller's Follow-Up Report 2013-F-1 on Department actions relative to the recommendations contained in earlier OSC Report 2009-S-25 entitled, "Enhanced Medicaid Payments to Selected Home Health Care Service Providers."

Thank you for the opportunity to comment.

Sincerely,



Sue Kelly  
Executive Deputy Commissioner

Enclosure

cc: Jason A. Helgerson  
James C. Cox  
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**Department Of Health  
Comments on the  
Office of the State Comptroller's  
Follow-Up Audit Report 2013-F-1 Entitled  
Enhanced Medicaid Payments to Selected  
Home Health Care Service Providers**

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The following are the Department of Health's (Department) comments in response to the Office of the State Comptroller's Follow-Up Audit 2013-F-1 entitled, "Enhanced Medicaid Payments to Selected Home Health Care Service Providers (2009-S-25).

**Recommendation #1:**

Establish a process for tracking the receipt and use of Recruitment, Training and Retention (RTR) funding for all recipients.

Status – Not Implemented

Agency Action – In the Department's response to the original audit, officials agreed with this recommendation and indicated they would direct managed long term care plans to establish a process to separately account for the receipt and disbursement of the funds. However, at this time of our follow up there was no evidence the Department took those actions.

**Response #1:**

Consistent with the Department response to the initial Draft Audit Report, the Bureau of Managed Long Term care has developed a survey to send to Managed Long Term Care (MLTC) plans to track the receipt and use of Recruitment, Training & Retention (RTR) funding. Each survey is cycle-specific, beginning with the 2011-2012 HR&R funding cycle. The survey is unique to each MLTC plan and includes the total amount awarded to each plan by the Department for the relevant cycle. Plans will be asked to provide a breakdown of the following by quarter:

- Total HR&R (Healthcare Recruitment and Retention) revenue received and where it is tracked in the MMCOR (Medicaid Managed Care Operating Report) by CCLN (class code line number – reference to a specific grid in the MMCOR).
- Total HR&R expenditures and where they are tracked in the MMCOR by CCLN. The form will contain pre-completed CCLNs for Home Health Care and Personal Care categories of service and plans will have the option of indicating other CCLNs, if applicable.
- The form will calculate the difference between HR&R revenue received and HR&R expenditures, as reported by the MLTC plan. The plan will be directed to indicate if the remaining funding has not yet been expended and/or if it has been reported as a liability.

Additional internal discussion will determine the frequency and timing that survey forms will be sent to MLTC plans, based on when the HR&R payments are made for the applicable cycle. Historically, timing of capitation adjustments has varied for each funding cycle.

HR&R surveys will be accompanied by a letter (release date will be January 10, 2014), which will provide the MLTC plan with sufficient guidance to complete the form by January 31, 2014.

MLTC plans will be expected to periodically update the survey for each relevant cycle until all funding received and expended has been accounted for. MLTC staff will follow-up and determine further action if surveys are not returned or are incomplete or if funds are not fully accounted for.

**Recommendation #2:**

Develop specific guidance on the allowable uses and time frames for RTR funds, and make the guidance available to all home health care providers and home health agencies receiving RTR funds.

Status – Not Implemented

Agency Action – In the Department’s response to the original audit, officials stated they would develop and distribute guidance as needed. However, Department officials were unable to provide any examples of guidance that they issued to home care providers regarding the allowable uses and time frames for RTR funds.

**Response #2:**

During 2010 the Department worked with the Office of the Medicaid Inspector General (OMIG) to develop a logical approach to auditing the allowable time frames the RTR funding was to be spent on. While neither the Department nor OMIG issued specific guidance on the allowable uses and time frames for RTR funds, auditing protocols were established. The OMIG’s protocol is dependent on a facility’s financial reporting of the income associated with the per diem add-ons. The three financial reporting scenarios in which a facility may file are as follows:

1. Income Included in Restricted Fund – The facility includes the income associated with the per diem add-ons in a restricted fund since the funds are to be used solely for the expenses outlined in the legislation. As long as the funds remained in the restricted fund and were not used for any other purpose, the OMIG would not make any per diem adjustment. When funds come out of the restricted fund, the OMIG would require documentation showing that the funds were used for qualifying HHR etc. expenses.
2. Liability Account Established for Funds Received – The facility establishes a liability in its financial records to reflect amounts to be spent on HRR etc. expense. The liability would be relieved as the funds were actually used for the subject expense. The OMIG would not make any per diem adjustment unless the funds were spent for non-qualifying expenses when the liability was reduced.
3. HRR etc. Funds Recorded as Income on Facility Financial Statements – The facility records all HRR etc. funds received as income in its financial records. All facilities are required to report revenues and expenses in accordance with “Generally Accepted Accounting Principles” (GAAP) by New York State legislation. Consequently, if the HRR etc. funds were recorded as income within the financial reporting period, according to the “revenue” and “matching” principles under GAAP, the funds are recorded as earned income and thus should have been spent on the qualifying HRR etc. expense. (The “revenue” principle in GAAP requires companies to record when revenue is (1) realized or realizable and (2) earned, not when cash is received. The “matching” principle in GAAP requires that expenses be matched with revenues and expenses are recognized when the work or product actually makes its contribution to revenue.) Therefore, the OMIG would require facilities to document that the funds taken in as income were in fact spent on HRR etc. qualifying expenses.

**Recommendation #3:**

Develop a mechanism for making the contracted home health agencies aware of the information on the Department's website explaining RTR funding.

Status – Not Implemented

Agency Action – In the Department's response to the original audit, officials agreed to direct long term managed care plans to forward any additional guidance on the use of RTR funds to their subcontractors. However, the Department was unable to provide any evidence to demonstrate this information was communicated to the managed long term care plans.

**Response #3:**

Bureau of Managed Long Term Care staff does not provide direct guidance to Home Health Care agencies regarding HR&R. MLTC plans are responsible for communicating this information to the home health agencies with whom they are contracted. MLTC staff will create a policy document for HR&R, which will include language pertinent to home health agencies, as quoted from the HR&R award letter. The policy document will be posted to the NYSDOH website by January 10, 2014. When the policy document is released, MLTC plan contacts will be notified and directed to share this website resource with their contracted home health agencies.

**Recommendation #4:**

Require all home health care providers receiving RTR funds to submit a statistical report describing how the funds were used, and follow up with the providers to obtain any reports that are not submitted on time. Use the format developed by the Bureau of Operations for the statistical report.

Status – Not Implemented

Agency Action – In the Department's response to the original audit, officials indicated they would direct managed long term care plans to develop a survey to collect statistical information regarding the distribution of funds as well as make sure the reports were completed timely. However, at the time of our follow up there was no evidence the Department took those actions.

**Response #4:**

As of the 2013-2014 Budget, CHAAS are no longer required to submit the attestations previously required to receive such funds. The elimination of this requirement is consistent with the movement of CHAA patients from fee for service to an Episodic Pricing System and eventually to Managed Care.