



Department of Health

ANDREW M. CUOMO
Governor

HOWARD A. ZUCKER, M.D., J.D.
Commissioner

SALLY DRESLIN, M.S., R.N.
Executive Deputy Commissioner

July 30, 2015

Ms. Andrea Inman, Audit Director
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 Audit Report 2015-F-4 entitled, "Overpayments for Services Also Covered by Medicare Part B" (2012-S-27).

Thank you for the opportunity to comment.

Sincerely,

Sally Dreslin, M.S., R.N.
Executive Deputy Commissioner

Enclosure

cc: Michael J. Nazarko
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**Department of Health
Comments on the
Office of the State Comptroller's
Follow-Up Audit Report 2015-F-4 entitled,
Overpayments for Services Also Covered by Medicare Part B
(Report 2012-S-27)**

The following are the Department of Health's (Department) comments in response to the Office of the State Comptroller's (OSC) Follow-Up Audit Report 2015-F-4 entitled, "Overpayments for Services Also Covered by Medicare Part B" (Report 2012-S-27).

Background:

New York State is a national leader in its oversight of the Medicaid Program. Through the efforts of the Department and the Office of the Medicaid Inspector General (OMIG), for 2009 through 2013, New York State alone accounted for 54.9 percent of the national total of fraud, waste, and abuse recoveries. These results reflect a trend of increased productivity and enforcement. For 2011 through 2013, the administration's Medicaid enforcement efforts recovered over \$1.73 billion, a 34 percent increase over the prior three-year period.

Under Governor Cuomo's leadership, the Medicaid Redesign Team (MRT) was created in 2011 to lower health care costs and improve quality of care for its Medicaid members. Since 2011, Medicaid spending has remained under the Global Spending Cap, while at the same time providing health care coverage to an additional 1,330,000 fragile and low income New Yorkers. Additionally, Medicaid spending per recipient has decreased to \$7,929 in 2013, consistent with levels from a decade ago.

Recommendation #1

Review and recover the Medicaid overpayments (totaling about \$7.1 million) for providers that improperly reported Part B coinsurance data.

Status - Partially Implemented

Agency Action - As of March 31, 2015, the overpayments identified in our initial report had not been recovered. The Office of the Medicaid Inspector General (OMIG) investigates and recovers improper Medicaid payments on behalf of the Department. OMIG contracts with HMS to identify and recover Medicaid overpayments involving third party insurance payments. OMIG officials reported that HMS reviewed our findings and initiated a collection process in September of 2013. At that time, HMS drafted collection letters to providers; however, the letters were never sent because, according to officials, the HMS project manager was reassigned. As a result, the project was mishandled, and recovery efforts stalled. Further, OMIG officials did not follow up with HMS on the status of the recovery effort until we engaged our follow-up review in March of 2015. As a result of our review, HMS' recovery efforts resumed.

As of May 1, 2015, approximately \$1.1 million in potential overpayments may no longer be recoverable under federal look-back rules that prohibit the Department from recovering a payment

more than six years after the date the corresponding claim was filed. To avoid further loss of recoverable overpayments, we strongly encourage OMIG and HMS to place sufficient priority on the pursuit of the remaining overpayments that are still recoverable.

Response #1

The OMIG disagrees with OSC's findings. OMIG's analysis, which utilized established data mining techniques, found that two-thirds of these claims were, in fact, paid correctly. Further, it should be noted that the vast majority of claims identified by OSC are less than \$100 - more than 62,000 claims had an average overpayment (per claim) of \$9.29, and over 141,000 claims averaged \$36.00 per claim. Thus, it is important to note that devoting an inordinate amount of State resources to pursue potential recoveries on such small dollar claims is neither cost-effective nor efficient. Such an effort would not deliver a reasonable or acceptable return on the resources invested. Correctly, OMIG prioritizes its activities and devotes resources to ensure the most effective and efficient return on its investment of State resources.

Regarding Medicare Part B overpayments, OMIG, through its contractor, has successfully recovered more than \$30 million over the last five years as part of its Recovery Audit Contractor (RAC) audits of Medicare Part B, and OMIG continues to conduct these audits in 2015. OMIG's RAC contractor will continue to recoup those overpayments determined to be valid and cost effectively recoverable.

Recommendation #2

Review and recover the Medicaid overpayments (totaling \$238,842) made to providers who were incorrectly designated as FQHCs.

Status - Partially Implemented

Agency Action - When conducting a review of Medicaid providers unrelated to our original audit finding, OMIG recovered \$3,125 of the overpayments we identified in our initial audit. However, OMIG has not recovered the remaining \$235,717, and, as of May 1, 2015, \$63,458 (27 percent) is barred from future recoveries under the federal six-year look-back rule. Again, we encourage OMIG to expedite their recovery efforts of the remaining overpayments.

Response #2

The OMIG is currently pursuing recoveries of the overpayments.