NEW YORK STATE OF OPPORTUNITY. Department of Health

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Executive Deputy Commissioner

October 16, 2018

Ms. Andrea Inman
Audit Director
New York State Office of the State Comptroller
110 State Street, 11th Floor
Albany, New York 12236

Dear Ms. Inman:

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 2016-S-60 entitled, "Managed Care Premium Payments for Recipients With Comprehensive Third-Party Insurance."

Please feel free to contact Estibaliz Alonso, Assistant Commissioner, Office of Governmental and External Affairs at (518) 473-1124 with any questions.

Sincerely,

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

Enclosure

cc: Estibaliz Alonso

Department of Health
Comments on the
Office of the State Comptroller's
Final Audit Report 2016-S-60 entitled, Managed Care Premium Payments for Recipients With Comprehensive Third-Party Insurance

The following are the Department of Health's (Department) comments in response to the Office of the State Comptroller's (OSC) Final Audit Report 2016-S-60 entitled, "Managed Care Premium Payments for Recipients with Comprehensive Third-Party Insurance."

Since issuance of the draft response, the Department has further reviewed the audit's findings and recommendations. Explained below are the reasons for the Department's concerns with the audit's conclusions. Despite these concerns, the Department takes seriously its obligation to prevent inappropriate payments and is reviewing alternatives to strengthen existing requirements and procedures.

Individuals with comprehensive TPHI are eligible for Medicaid if they otherwise meet income and other eligibility criteria. Under New York's current Medicaid managed care policies, an individual confirmed to have comprehensive TPHI, defined as including thirteen specific services, is not enrolled in a Medicaid managed care plan and instead receives coverage through Medicaid fee-for-service (FFS).

- **Findings are not offset by Medicaid FFS payments that would have occurred.** Most Medicaid eligible individuals not enrolled in managed care still have access to covered services through Medicaid FFS. However, the audit's projection does not recognize the fact that if the individual was in Medicaid FFS, Medicaid would not have paid a managed care premium, but it would have paid for covered services not reimbursed by the TPHI and, if cost effective, the premium for the TPHI.

  For example, if the TPHI had a $5,000 annual deductible, and the individual had a hospital stay or other covered services, Medicaid FFS would have paid for the service before the annual deductible was met and any coinsurance and copayments throughout the remainder of the year. Additionally, if an individual received services that were covered by Medicaid but not covered by the TPHI, such as nursing home care, personal care, home and community-based services, non-medical transportation, over the counter prescriptions, etc. Medicaid FFS would have paid for the services.

  In order to accurately estimate the financial impact, auditors would have to have offset any potential findings by the amount the FFS program would have paid—a complicated analysis beyond the scope of the audit. Because monthly premium payments made to managed care plans are based on averages, as are all insurance premiums, the amount paid by FFS, could have been greater than the payment to the managed care plan in some instances.

- **Potential findings are not offset by the cost of Medicaid paying the TPHI premium and cost-sharing.** Medicaid will pay the TPHI premium and cost-sharing for consumers if it is found to be cost-effective. An accurate estimate of overpayments would also have to offset any premiums that Medicaid would have paid on behalf of consumers with TPHI.

- **Audit projection does not consider Federal notice and due process requirements.** A Medicaid recipient cannot be disenrolled from managed care without proper notice. The

Department analyzed the data provided by OSC and determined that the audit incorrectly included approximately 162,000 monthly premium payments that were required to be paid before the Department could legally end coverage.

While the Department is concerned on the above topics, it takes seriously its obligation to prevent inappropriate payments and is taking the following actions:

- **Expand NY State of Health Disenrollment Process.** The audit found that the notification from eMedNY and automatic disenrollments from managed care occurred as intended in NY State of Health. A review of the contractor's data shows 53.7 percent of individuals identified as potentially having TPHI already enroll or recertify their coverage through NY State of Health. By May 2019, all local social services districts, except for New York City (NYC), will have transitioned their Modified Adjusted Gross Income (MAGI) population to NY State of Health. NY State of Health will begin phasing-in this transition in NYC in 2019. For this reason, the Department does not intend to pursue systems edits in the Welfare Management System (WMS) automate disenrollment.

- **Review State requirements for insurers to report TPHI to the State.** In collaboration with the Office of the Medicaid Inspector General (OMIG), the Department will review and make recommendations to strengthen the statutory requirements for TPHI to report coverage to the State. This includes the frequency of required reporting.

- **Explore enrollment broker role in TPHI.** The Department is engaging with its Enrollment Broker, New York Medicaid Choice, to determine how it can more efficiently notify and disenroll members with confirmed comprehensive TPHI coverage for local district cases.

- **Review options for TPHI coordination.** The Department will review alternative policies and options for the identification of TPHI that ensure timely identification and enrollee due process.

- **Review managed care premium payments.** OMIG's contractor, HMS, is performing an ongoing review of paid premium payments for recipients with comprehensive TPHI. HMS is sending quarterly reports of these findings to the MCOs for review and recovery where appropriate.

- **Model Contract review.** The Department will collaborate with OMIG to explore policies, and corresponding Model Contract amendments, that would allow the Department to recover premium payments and/or adjust rates, as appropriate, to account for MCO enrollees with concurrent comprehensive TPHI.