



## Department of Health

ANDREW M. CUOMO  
Governor

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

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

May 14, 2019

Mr. Kenneth Shulman  
Assistant Comptroller  
New York State Office of the State Comptroller  
110 State Street, 10<sup>th</sup> Floor  
Albany, New York 12236

Dear Mr. Shulman:

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 2017-S-74 entitled, "Improper Fee-for-Service Payments for Services Covered by Managed Care."

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 2017-S-74 entitled, "Improper Fee-for-Service**  
**Payments for Services Covered by Managed Care"**

---

The following are the Department of Health's (Department) comments in response to the Office of the State Comptroller's (OSC) Final Audit Report 2017-S-74 entitled, "Improper Fee-for-Service Payments for Services Covered by Managed Care."

**Recommendation #1:**

Review the \$36 million in improper Medicaid FFS payments we identified and make recoveries, as appropriate.

**Response #1:**

The Office of the Medicaid Inspector General (OMIG) will continue to review the remaining identified payments and pursue recovery of any payment determined to be inappropriate.

**Recommendation #2:**

Work with Maximus and the LDSSs to ensure newborn managed care eligibility is updated promptly, retroactive to the month of birth.

**Response #2:**

The automated enrollment process in New York State of Health was turned on in October 2017 for Upstate districts and in March 2018 for New York City. Newborns are being enrolled in managed care back to the month of birth timelier because it is no longer a manual process. Maximus cannot retroactively enroll newborns; however, the Department will work with Local Departments of Social Services (LDSS) to ensure newborns who have coverage on Welfare Management System get enrolled in a managed care plan back to the month of birth without delay.

**Recommendation #3:**

Coordinate with the entities responsible for managed care enrollments to prevent inappropriate FFS payments, particularly for newborn enrollees. Steps should include, but not be limited to:

- Working with Plans to identify pregnant enrollees and to ensure Plans promptly notify LDSSs and NYSOH of pregnancies to allow for the timely creation of Unborn CINs;
- Reminding hospitals that they must contact Plans and not bill Medicaid FFS for newborn-related medical services when the mother is enrolled in a Plan but the newborn's managed care does not exist; and
- Ensuring Plans correct their procedures and processes to make timely payments to hospitals for newborns not yet enrolled in mothers' Plans, including when newborns are not on the monthly rosters.

**Response #3:**

On February 5, 2019, the Department sent a notice to the LDSS reminding them of their roles and responsibilities in ensuring the prompt enrollment of unborn and newborns into the Medicaid system.

The Department sent a letter to hospitals on March 12, 2019 reminding them not to bill Fee-for-Service (FFS) for newborn-related medical services when the mother is enrolled in a managed care plan at the time of birth.

On February 5, 2019, the Department sent a notice to the plans reminding them of their responsibility to provide prompt notification regarding known pregnancies and to ensure coverage of medically necessary benefit package services for those newborns whose mother is enrolled in the plan on the newborn's date of birth, including coverage in the absence of an effectuated enrollment for the newborn.

**Recommendation #4:**

Remind hospitals to report every live birth to the Department within five business days and monitor the timing of their reporting, assessing penalties, if warranted.

**Response #4:**

The Department sent a letter to hospitals on March 12, 2019 reminding them of the requirement to report every live birth within five business days of birth. To monitor hospitals' compliance with reporting requirements, a database needs to be created. Therefore, the Department has begun working with the New York State Office of Information Technology Services to create a new database. Preliminary steps have been taken to explore the best approach.

**Recommendation #5:**

Develop a process to routinely identify and recover improper Medicaid FFS payments for managed care services resulting from retroactive updates to recipients' managed care eligibility and scope of benefits information in eMedNY.

**Response #5:**

The Department will continue to collaborate with OMIG to develop a process, where feasible, to routinely identify and recover improper Medicaid FFS payments for managed care services resulting from retroactive updates to recipients' managed care eligibility and scope of benefits information in eMedNY.

**Recommendation #6:**

Assess the feasibility of implementing eMedNY edits to deny improper FFS payments for newborns of mothers enrolled in Plans.

**Response #6:**

The Department will assess the feasibility of edits in eMedNY to prevent payment of FFS claims for newborns who are awaiting enrollment into the mother's managed care plan.