THOMAS P. DiNAPOLI
COMPTROLLER

110 STATE STREET
ALBANY, NEW YORK 12236

STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

May 16, 2019

Howard A. Zucker, M.D., J.D.
Commissioner
Department of Health
Corning Tower
Empire State Plaza
Albany, NY 12237

Re: Medicaid Overpayments for
Inpatient Care Involving Mechanical
Ventilation Services
Report 2018-S-45

Dear Dr. Zucker:

Pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law, we conducted an audit of the Department of Health (Department) to determine whether Medicaid overpayments were made to hospitals for mechanical ventilation services reported on APR-DRG (All Patient Refined Diagnosis Related Groups) inpatient claims. The audit covered the period from January 1, 2014 through December 31, 2018.

Background

The New York State Medicaid program is a federal, state, and local government-funded program that provides a wide range of medical services to those who are economically disadvantaged and/or have special health care needs. For the State fiscal year ended March 31, 2018, New York's Medicaid program had approximately 7.3 million enrollees and Medicaid claim costs totaled over $62.9 billion. The federal government funded about 55.7 percent of New York's Medicaid claim costs, and the State and the localities (the City of New York and counties) funded the remaining 44.3 percent.

The Department administers the Medicaid program in New York State. Medicaid claims are processed and paid by an automated system called eMedNY. When eMedNY processes claims, the claims are subject to various automated controls, which determine whether the claims are eligible for reimbursement and if the amounts claimed for reimbursement are appropriate.

The Department uses the APR-DRG methodology to reimburse hospitals for

inpatient medical care. To make APR-DRG payment determinations, the Department uses a third-party software (called Grouper). When a hospital bills Medicaid for an inpatient stay, the hospital reports certain information on its claims, such as the patient's diagnoses and services received, as well as admission and discharge dates. The Grouper uses this information to assign the appropriate APR-DRG (i.e., diagnosis related group) and a severity of illness (minor, moderate, major, or extreme) for the inpatient stay. Based on this information, eMedNY then assigns a service intensity weight to the claim (generally, more acute or severe medical conditions receive a higher weight). The service intensity weight, in conjunction with an established payment rate for the hospital, is used to calculate the hospital's payment. As the service intensity weight increases, the hospital's payment increases.

Mechanical ventilation is the use of a device to inflate and deflate a patient's lungs. Mechanical ventilation provides the force needed to deliver air to the lungs in a patient whose ability to breathe is diminished or lost. Hospitals use International Classification of Diseases (ICD) procedure codes on their claims to report mechanical ventilation services. When hospitals use a specific ICD procedure code to report a patient received 96 consecutive hours or more (i.e., four days or more) of mechanical ventilation, it causes the Grouper to assign specific APR-DRGs. Generally, these APR-DRGs have higher service intensity weights than other APR-DRGs, which causes higher Medicaid payments. For the period of January 1, 2014 through December 31, 2018, Medicaid paid over $522 million to hospitals for 4,874 inpatient APR-DRG claims that included an ICD procedure code for 96 consecutive hours or more of mechanical ventilation services.

Results of Audit

For the five-year period ended December 31, 2018, we identified $975,795 in Medicaid overpayments on 32 inpatient claims that reported 96 consecutive hours or more of mechanical ventilation services.

Medicaid relies on hospitals to report accurate ICD procedure codes on inpatient claims. Our audit found that eMedNY lacks the controls needed to prevent Medicaid overpayments on claims where 96 consecutive hours or more of mechanical ventilation services was not possible. We reviewed eMedNY claim data and found:

- $616,458 in overpayments on 12 claims where there was less than four days between the mechanical ventilation start date and the hospital discharge date; and
- $272,686 in overpayments on 14 claims where there was less than four days between the hospital admission date and time and the discharge date and time.

We also found that providers are not required to report the actual begin and end times for mechanical ventilation services on Medicaid claims. Without this data, eMedNY cannot verify the accuracy of the ICD procedure code reported against the duration of mechanical ventilation services claimed. We reviewed medical records to support a sample of claims billed by two hospitals and found:

- $86,651 in overpayments on six claims where the hospitals reported the ICD

procedure code for 96 consecutive hours or more of mechanical ventilation services despite the records showing less than 96 hours of service was provided.

Analysis of Claims for Mechanical Ventilation Services

We analyzed APR-DRG inpatient claims paid between January 1, 2014 and December 31, 2018 to identify instances where hospitals reported 96 consecutive hours or more of mechanical ventilation services. Our review determined hospitals billed the incorrect mechanical ventilation ICD procedure code on 26 claims totaling Medicaid payments of $1,588,150. In all instances, claims data revealed that 96 hours of mechanical ventilation services was not possible. We determined the hospitals were overpaid $889,144 on these claims.

For 12 claims totaling $1,034,550, there was less than four days (i.e., 96 hours) between the mechanical ventilation start date and the discharge date. Despite the length of time between the ventilation start and discharge dates, the hospital billed Medicaid for 96 hours or more of mechanical ventilation services. For example, a patient started receiving mechanical ventilation services on April 26, 2016 and passed away on April 27, 2016. However, the hospital reported that the patient received 96 consecutive hours or more of mechanical ventilation services on its claim. As a result, Medicaid overpaid the hospital $96,284. In total, we found $616,458 in overpayments on these 12 claims.

For the remaining 14 claims totaling $553,600, we determined the patients were hospitalized for less than 96 hours based on the admission and discharge dates and times. For example, a hospital admitted a patient at 8:00 p.m. on August 10, 2017, and discharged the patient at 3:30 p.m. on August, 14, 2017 – a total visit of 91.5 hours. The hospital billed Medicaid using the ICD procedure code representing 96 consecutive hours or more of mechanical ventilation services. Medicaid paid the hospital $37,263 for the claim. Had the hospital billed the appropriate ICD procedure code, Medicaid would have paid the hospital $21,471. Because the incorrect code was used, the hospital was overpaid $15,792 for the claim. In total, we found overpayments of $272,686 on these 14 claims.

Review of Patient Medical Records

We selected a judgmental sample of 99 inpatient claims totaling over $10.4 million that were submitted by two hospitals that billed Medicaid for 96 consecutive hours or more of mechanical ventilation services. We reviewed the medical records to assess the actual number of consecutive hours of mechanical ventilation services that the patients received. We found six claims where the supporting medical records showed less than 96 hours of mechanical ventilation services had been provided. For example, Medicaid paid $35,822 for one claim and the medical record showed that the patient received only 70 hours of mechanical ventilation services. After reprocessing the claim with the appropriate ICD procedure code, we determined the correct payment for the actual services provided should have been $23,627. Because the incorrect code was billed, Medicaid overpaid the hospital $12,195 for the claim. In total, we found that Medicaid overpaid the two hospitals $86,651 for the six claims.

We met with officials from both hospitals to understand how they document and code mechanical ventilation procedures. We found that the incorrect reporting generally occurred because the hospitals made clerical errors counting the number of hours or counted the number of days instead of the actual number of continuous hours the patient received mechanical ventilation. We provided the two hospitals with our findings. Both hospitals confirmed their claims were improperly billed and indicated they would take actions to prevent future billing errors.

eMedNY System Limitations

Hospitals are not required to report mechanical ventilation start and end times or the mechanical ventilation end date on their claims. Without this information, eMedNY cannot verify the hospital billed the correct mechanical ventilation ICD procedure code. Additionally, eMedNY does not have controls to identify and flag claims where it is unlikely the patient received 96 or more consecutive hours of mechanical ventilation services. As previously noted, we identified claims with 96 or more consecutive hours of mechanical ventilation services reported where the patient was in the hospital for less than 96 hours and claims where the hospital reported the mechanical ventilation service began less than four days before the patient was discharged.

Recommendations

1. Review the $975,795 in overpayments we identified and make recoveries, as appropriate.

2. Formally remind hospitals to use the ICD procedure code that represents the duration of time the patient received mechanical ventilation services.

3. Establish payment controls that validate the duration of mechanical ventilation services that hospitals claim.

Audit Scope, Objective, and Methodology

The objective of the audit was to determine whether Medicaid overpayments were made to hospitals for mechanical ventilation services reported on APR-DRG inpatient claims. The audit covered the period from January 1, 2014 through December 31, 2018.

To accomplish our objective and assess related internal controls, we interviewed officials from the Department and examined the Department's relevant Medicaid policies and procedures as well as applicable federal and State laws, rules, and regulations. We also interviewed officials from two hospitals. We used the Medicaid Data Warehouse to identify APR-DRG inpatient claims billed by hospitals that included a procedure code that represented 96 consecutive hours or more of mechanical ventilation. During the audit, we shared our methodology and our findings with officials from the Department and the Office of the Medicaid Inspector General for their review. The Department recalculated the payments using the Grouper to determine any overpayments. We used the overpayment amounts calculated by the Department in this report.

We selected a judgmental sample of 99 claims from two hospitals in the New York City metropolitan area that routinely billed Medicaid for inpatient stays with a procedure code that represented 96 or more consecutive hours of mechanical ventilation. We focused on selecting high-risk claims for review based on the reported mechanical ventilation start date and patient discharge date. We requested and reviewed the medical records for these 99 claims to assess the appropriateness of the procedure code used by the hospitals. Because this is a judgmental sample, the results cannot be projected to the population as a whole.

We conducted our performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

In addition to being the State Auditor, the Comptroller performs certain other constitutionally and statutorily mandated duties as the chief fiscal officer of New York State. These include operating the State's accounting system; preparing the State's financial statements; and approving State contracts, refunds, and other payments. In addition, the Comptroller appoints members to certain boards, commissions, and public authorities, some of whom have minority voting rights. These duties may be considered management functions for purposes of evaluating organizational independence under generally accepted government auditing standards. In our opinion, these functions do not affect our ability to conduct independent audits of program performance.

Reporting Requirements

We provided a draft copy of this report to Department officials for their review and formal comment. We considered the Department's comments in preparing this report and have included them in their entirety at the end of the report. In their response, Department officials agreed with the audit recommendations and indicated the actions they will take to address them.

Within 90 days of the final release of this report, as required by Section 170 of the Executive Law, the Commissioner of Health shall report to the Governor, the State Comptroller, and the leaders of the Legislature and fiscal committees, advising what steps were taken to implement the recommendations contained herein, and where recommendations were not implemented, the reasons why.

Major contributors to this report were Christopher Morris, Daniel Towle, Mostafa Kamal, Edward Reynoso, Linda Thipvoratrum, and Suzanne Loudis.

We would like to thank the management and staff of the Department for the courtesies and cooperation extended to our auditors during this review.

Sincerely,

Andrea Inman
Audit Director

cc: Mr. Daniel Duffy, Department of Health
Mr. Dennis Rosen, Medicaid Inspector General

Agency Comments

NEW YORK STATE OF OPPORTUNITY. | 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 9, 2019

Ms. Andrea Inman, Audit Director
Office of the State Comptroller
Division of State Government Accountability
110 State Street – 11th Floor
Albany, New York 12236-0001

Dear Ms. Inman:

Enclosed are the Department of Health's comments on the Office of the State Comptroller's Draft Audit Report 2018-S-45 entitled, "Medicaid Overpayments for Inpatient Care Involving Mechanical Ventilation Services."

Thank you for the opportunity to comment.

Sincerely,

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

Enclosure

cc: Marybeth Hefner
Donna Frescatore
Dennis Rosen
Erin Ives
Brian Kiernan
Timothy Brown
Amber Rohan
Elizabeth Misa
Geza Hrazdina
Daniel Duffy
Jeffrey Hammond
Jill Montag
Ryan Cox
James Dematteo
James Cataldo
Jessica Lynch
DOH Audit SM

Department of Health
Comments on the Office of the State Comptroller's Draft Audit Report 2018-S-45 entitled, "Medicaid Overpayments for Inpatient Care Involving Mechanical Ventilation Services"

The following are the Department of Health's (Department) comments in response to the Office of the State Comptroller's (OSC) Draft Audit Report 2018-S-45 entitled, "Medicaid Overpayments for Inpatient care Involving Mechanical Ventilation Services."

Recommendation #1:

Review the $975,795 in overpayments we identified and make recoveries, as appropriate.

Response #1:

The Office of the Medicaid Inspector General will review the identified overpayments and determine an appropriate course of action.

Recommendation #2:

Formally remind hospitals to use the ICD procedure code that represents the duration of time the patient received mechanical ventilation services.

Response #2:

The Department is in the process of determining an appropriate course of action to advise hospitals to accurately report the duration of time the patient received mechanical ventilation services when billing Medicaid to ensure appropriate payment.

Recommendation #3:

Establish payment controls that validate the duration of mechanical ventilation services that hospitals claim.

Response #3:

The Department is currently reviewing an appropriate method to validate the duration of mechanical ventilation services that are claimed by hospitals.