



Department of Health

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Commissioner

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

November 18, 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 Follow-Up Audit Report 2019-F-29 entitled, "Medicaid Payments to Medicare Advantage Plan Providers Report." (2016-S-54)

Thank you for the opportunity to comment.

Sincerely,

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

Enclosure

cc: Marybeth Hefner
Diane Christensen
Jeffrey Hammond
Jill Montag
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Department of Health
Comments on the Office of the State Comptroller's
Follow-Up Audit Report 2019-F-29 entitled,
"Medicaid Payments to Medicare Advantage Plan Providers"
(Report 2016-S-54)

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 2019-F-29 entitled, "Medicaid Payments to Medicare Advantage Plan Providers" (Report 2016-S-54).

Recommendation #1:

Review the actual (\$770,935) and potential (\$562,356) Medicaid overpayments we identified and recover as appropriate.

Status – Not Implemented

Agency Action – The Office of the Medicaid Inspector General (OMIG) investigates and recovers improper Medicaid payments on behalf of the Department. OMIG's Work Plan states it will safeguard Medicaid resources by responding to external audits from OSC and it will analyze the external audit data and work to recover inappropriately paid claims. At the conclusion of the initial audit, we provided OMIG with a file containing details of the actual overpayments we identified, including, but not limited to, the Medicaid payment, the Part C claims payment data received from the plans, and the calculated overpayment.

OMIG was unable to provide evidence that it took action to recover any of the overpaid claims identified in the initial audit. Further, OMIG could not demonstrate that it contacted any of the three providers that received significant overpayments. At the conclusion of our follow-up review, OMIG stated it plans to pursue recovery of any payment determined to be inappropriate. We encourage OMIG officials to expedite its review and recovery of the overpayments we identified in the initial audit. We remind OMIG officials that the audit covered the period January 2012 through December 2016 and overpaid claims from earlier years may be at risk of non-recovery due to federal look-back provisions.

Response #1:

OMIG will continue to review the identified overpayments and pursue recovery of any payment determined to be inappropriate.

Recommendation #2:

Formally instruct the three providers identified in this report to bill Medicare Part C claims in accordance with existing requirements.

Status – Partially Implemented

Agency Action – The Department drafted an article formally instructing providers how to properly bill Medicaid for claims containing Medicare Part C cost-sharing liabilities. According to Department officials, the article will be part of a future edition of the Department's official publication for Medicaid providers, Medicaid Update. We also encourage Department officials to reach out to the three providers directly and provide instruction.

Response #2:

The Department conducted a claim activity review of the three providers identified in this report and found that the three providers have shown they are now billing correctly. Additionally, the Department published a Medicaid Update article instructing all providers to bill Medicare Part C claims in accordance with existing requirements as linked below. The Department considers this recommendation to be fully implemented.

Reminder to all Providers on Billing Requirements for Medicare Part C Claims That are Submitted to Medicaid for Payment of Patient Responsibility

Recommendation #3:

Develop a risk-based approach to identify and prevent inappropriate Medicaid claims for Medicare Part C cost-sharing liabilities.

Status – Partially Implemented

Agency Action – In January 2016, the Department implemented an edit to its claims processing system, eMedNY, that compares cost-sharing liability amounts to other payment information on Medicare Part C claims. However, we determined this edit would not have prevented all the inappropriate claims identified in the initial audit. In March 2019, the Department held internal discussions to review the edit for possible improvements. We encourage the Department to continue this review and to strengthen the edit to prevent future Medicaid overpayments for Medicare Part C cost-sharing liabilities.

Response #3:

In September 2019, the Department submitted eMEDNY system project (#6637) to build upon existing capabilities to reduce the risk of overpayments identified in the report. The system project is intended to strengthen claim edits and limit payments for Medicare Part C cost-sharing liabilities to reasonable amounts. The timeline for implementation of this capability is currently being assessed.