



Department of Health

ANDREW M. CUOMO
Governor

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

LISA J. PINO, M.A., J.D.
Executive Deputy Commissioner

July 9, 2020

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-53 entitled, "Opioid Prescriptions for Medicaid Recipients in an Opioid Treatment Program." (Report 2017-S-66).

Thank you for the opportunity to comment.

Sincerely,

A handwritten signature in black ink that reads "Diane Christensen". The signature is written in a cursive, flowing style.

for Lisa J. Pino, M.A., J.D.
Executive Deputy Commissioner

Enclosure

cc: Diane Christensen
Jeffrey Hammond
Jill Montag
Elizabeth Misa
Geza Hrazdina
Dan Duffy
Erin Ives
Amber Rohan
Brian Kiernan
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**Department of Health Comments on the
Office of the State Comptroller's
Follow-Up Audit Report 2019-F-53 entitled,
"Opioid Prescriptions for Medicaid Recipients in an Opioid Treatment
Program" (Report 2017-S-66)**

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-53 entitled, "Opioid Prescriptions for Medicaid Recipients in an Opioid Treatment Program (Report 2017-S-66)."

Recommendation #1:

Evaluate the benefits of the following actions to improve scrutiny over opioid prescriptions for Medicaid recipients who are being treated for opioid use disorder:

- a. Developing a report that can be used to notify Treatment Programs when I-STOP indicates recipients are receiving potentially dangerous prescriptions (such as opioids);
- b. Taking steps to ensure Treatment Programs are aware of the option to upload patient information when querying I-STOP;
- c. Taking steps to ensure Medicaid MCOs have controls requiring medical appropriateness reviews prior to dispensing opioids to recipients with opioid use disorder consistent with Medicaid FFS controls; and
- d. Including a risk assessment within the Recipient Restriction Program that is specific to individuals receiving medication-assisted treatment for opioid use disorder concurrently with opioid prescriptions.

Status – Implemented

Agency Action - The Department evaluated the benefits of the recommended actions and has taken steps to strengthen scrutiny over opioid prescriptions for Medicaid recipients with opioid use disorder. This includes working to incorporate clinical decision-making tools into the I-STOP program through an "Overdose Data to Action" grant funded by the federal Centers for Disease Control and Prevention. These tools will enable Treatment Programs and other prescribers to more quickly identify clinical issues and potential opioid abuse and allow for easier patient history review in I-STOP. In addition, in November 2019, the Department published a webinar that provided an overview of the I-STOP program and included instruction on the multi-patient search feature. This feature allows Treatment Programs and other prescribers to upload information to I-STOP and perform queries on up to 30 patients at one time.

The Department has been working with MCOs to require medical appropriateness reviews prior to dispensing opioids to patients with opioid use disorder. Department officials provided MCOs with the criteria used in Medicaid FFS controls, and instructed them to develop and implement a plan to identify and review the data on patients who meet the criteria. At the time of our follow-up review, the Department was in the process of collecting and reviewing data received from the MCOs.

The Office of the Medicaid Inspector General's (OMIG) Restricted Recipient Program includes a risk assessment based on overutilization, duplicative or conflicting services, and/or abuse of the

Medicaid benefit. At the time of our initial audit, we found that this assessment did not look for individuals receiving medication-assisted treatment for opioid use disorder concurrently with opioid prescriptions. According to OMIG officials, they have determined there is limited benefit to implementing this criterion due to patient privacy regulations, which prevent OMIG from disclosing a patient's participation in a Treatment Program to prescribers or pharmacies.

Response #1:

The Department confirms agreement with this report.

Recommendation #2:

Issue guidance to remind Treatment Programs of the statutory and regulatory requirement to check I-STOP when Treatment Programs dispense take-home doses of opioid medications. Evaluate the benefits of establishing additional guidance for Treatment Programs to make other checks of I-STOP when clinically appropriate.

Status – Partially Implemented

Agency Action - Our initial audit found that I-STOP was underutilized by the Treatment Programs we visited. For example, we did not find evidence that Treatment Programs were checking I-STOP prior to every instance a medication-assisted opioid was dispensed for take-home use, as required by State law. After our initial audit, the Office of Addiction Services and Supports (OASAS) issued guidance reminding Treatment Programs to comply with statutory requirements to check I-STOP. However, the guidance does not provide a clear explanation of the Treatment Programs' statutory obligation to check I-STOP each time a medication-assisted opioid is dispensed for take-home use. Instead, it recommends that opioid treatment providers consult I-STOP when a patient becomes eligible for take-home doses of medication, whenever a patient on take-home medication has a dosage change, and as otherwise clinically appropriate. In addition, the guidance makes no reference to certain conditions under the current law that may exempt Treatment Programs from the requirement to check I-STOP each time they dispense for take-home use, such as when it is not reasonably possible for the practitioner to access the registry in a timely manner or when no other practitioner or authorized designee is reasonably available to check the registry.

We note that the guidance includes instructions to Treatment Programs to make additional checks of I-STOP where clinically appropriate, such as upon admission and at regular intervals during treatment.

Response #2:

The Office of Addiction Services and Supports will issue additional guidance clarifying when opioid treatment providers are required to check I-STOP and identifying possible exemptions under the law from the requirements.

Recommendation #3:

Formally remind Treatment Program providers of the importance of seeking to coordinate care with prescribers of opioids outside of the Treatment Programs.

Status – Implemented

Agency Action - Per the New York Codes, Rules and Regulations, Title 14, providers shall seek to obtain consent from the patient so that the provider practitioner may consult with the prescribing practitioner and discuss: the patient's total medical condition and situation; the prescribed medicine and available alternatives; and the best plan of services to be rendered by each practitioner, given the patient's concurrent treatment. In March 2019, OASAS issued guidance formally reminding Treatment Programs of their obligation to try to coordinate care with their patients' other prescribers. The guidance included a reminder that Treatment Programs are expected to make diligent efforts to obtain consent from patients to allow care coordination, regularly discuss other medications and prescriptions taken by the patient, and document this information in the patient's record.

Response #3:

The Department confirms agreement with this report.