



## Department of Health

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March 19th, 2021

Ms. Andrea Inman  
Audit Director  
Division of State Government Accountability  
NYS 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 2019-S-43 entitled, "Medicaid Program: Accuracy of Medicaid Eligibility Determined by NY State of Health."

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

Sincerely,

Theresa Egan  
Deputy Commissioner for Administration

Enclosure

cc: Ms. Newman

**Department of Health Comments on the  
Office of the State Comptroller's  
Final Audit Report 2019-S-43 entitled, "Medicaid Program: Accuracy  
of Medicaid Eligibility Determined by NY State of Health"**

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The following are Department of Health's (Department) comments in response to the Office of the State Comptroller's (OSC) Final Audit Report 2019-S-43 entitled, "Medicaid Program: Accuracy of Medicaid Eligibility Determined by NY State of Health."

**Recommendation #1:**

Review the \$9,140,079 (\$7,173,450 + \$1,740,375 + \$226,254) in improper Medicaid managed care payments and make recoveries, as appropriate.

**Response #1:**

The Department is reviewing the Medicaid managed care payments identified by OSC and will make recoveries under applicable laws and regulations, as appropriate. However, this process is impacted by the continuation of the national Public Health Emergency (PHE). Some recoveries remain on hold because section 6008 of the Families First Coronavirus Response Act (FFCRA) and other directives issued by the Centers for Medicare and Medicaid Services (CMS) require states to maintain coverage during the national PHE in certain instances. When permissible, the Department will make any remaining recoveries.

**Recommendation #2:**

Review the \$2,562,873 (\$2,510,663 + \$52,210) in improper Medicaid FFS payments and make recoveries, as appropriate.

**Response #2:**

The Department is reviewing the FFS payments identified by OSC and will make recoveries under applicable laws and regulations, as appropriate. However, this process is impacted by the continuation of the national Public Health Emergency. Some recoveries remain on hold because section 6008 of the FFCRA and other directives issued by CMS require states to maintain coverage during the national PHE in certain instances. When permissible, the Department will make any remaining recoveries.

**Recommendation #3:**

Review the \$4,942,633 in improper and questionable eMedNY payments (prioritizing those with no encounters after NYSOH date of death) and make recoveries, as appropriate.

**Response #3:**

The Department is reviewing the \$4,942,633 in payments identified by OSC and make recoveries under applicable laws and regulations, as appropriate. However, this process is impacted by the continuation of the national Public Health Emergency. Some recoveries remain on hold because section 6008 of the FFCRA and other directives issued by CMS require states to maintain coverage during the national PHE in certain instances. When permissible, the Department will take make any remaining recoveries.

**Recommendation #4:**

Perform reconciliations of Medicaid program eligibility and enrollment, including death data, between NYSOH and eMedNY and resolve differences in a timely and accurate manner.

**Response #4:**

The Department established a workgroup dedicated to remediating date of death data discrepancies transmitted from NY State of Health (NYSOH) to eMedNY. The workgroup was additionally tasked with remediating any system defects contributing towards the data discrepancies. Defect remediation is complete; however, data corrections remain on hold per section 6008 of the FFCRA and other directives issued by CMS, which require states to maintain coverage during the national PHE in certain instances. Once these directives are lifted by CMS, which will likely coincide with the end of the calendar quarter in which federal PHE expires, the Department will promptly resume the necessary data corrections to resolve the data discrepancies, as identified by the workgroup, and undertake recoupment opportunities under applicable laws and regulations, as appropriate.

**Recommendation #5:**

Improve NYSOH's communication of death information to eMedNY to ensure that 834 transactions are accurate and processed for:

- Recipients who did not respond to renewals because they were deceased; and
- Recipients identified by NYSOH as not applying because they were deceased.

**Response #5:**

The Department established a workgroup dedicated to remediating date of death data discrepancies transmitted from NYSOH to eMedNY. The workgroup was additionally tasked with remediating any system defects contributing towards the data discrepancies. Defect remediation is complete; however, data corrections remain on hold per section 6008 of the FFCRA and other directives issued by CMS, which require states to maintain coverage during the national PHE in certain instances. Once these directives are lifted by CMS, which will likely coincide with the end of the calendar quarter in which federal PHE expires, the Department will promptly resume the necessary data corrections to resolve the data discrepancies, as identified by the workgroup, and undertake recoupment opportunities under applicable laws and regulations, as appropriate.

**Recommendation #6:**

Improve eMedNY's MEC matching algorithm and NYSOH's subsequent processing of eMedNY MEC results to eliminate false-positive death results.

**Response #6:**

The Department initiated a system project to improve the matching criteria between NYSOH and eMedNY and to adjust the logic and ensure Consumer 101 matches are accurately calculated and can be processed with assurance within NYSOH. This project was implemented during the fourth quarter of 2020. For purposes of interim mitigation, NYSOH previously

implemented a solution to stop Consumer 101 matches for eMedNY Minimum Essential Coverage (MEC) in April 2020.

**State Comptroller's Comment #1:**

As the Department knows, the scope of each of our audits is not the entire \$67 billion Medicaid program, but rather certain segments of the program. This audit is one of many ongoing audits the Office of the State Comptroller conducts of the Medicaid program which, over the last five years, have identified more than \$4 billion in audit findings and wasted State taxpayer funds. In the current fiscally stressed times, every Medicaid dollar counts. Further, the \$16.6 million identified in this audit is not overstated: for every dollar identified, the Department's systems contained inaccurate and inconsistent data between NYSOH (its health plan marketplace) and eMedNY (its Medicaid claims processing and payment system) – problems that the Department acknowledges throughout its response. Despite the Department's comments, we are pleased officials are taking steps to implement all of the audit recommendations.

**Response to State Comptroller's Comments #1:**

OSC Comments #1 through #4 ignore the Department's key point regarding available data illustrated by the examples provided in our previous response. In addition, the statement in Comment #3 that their audit conclusions were based on NYSOH-provided data is misleading. Although NYSOH provided other date of death or life status data, OSC's audit conclusions were limited to date of death data pulled from one source - eMedNY MEC. That is, OSC did not always base its audit conclusions on all available NYSOH-provided data even when it was more recent and/or considered more reliable (e.g., date of death information from the Social Security Administration (SSA) and/or consumer contact with NYSOH representatives). Moreover, OSC chose to limit their evaluation in this way even though the Department clearly and consistently advised OSC throughout the audit that date of deaths in NYSOH pulled from eMedNY MEC were more likely to be false-positive matches. The Department also advised OSC that steps were already underway to correct this issue. In April 2020, shortly after the audit period ended, additional system functionality was deployed and, in November 2020, supplementary system enhancements were implemented.

While the Department does not object to OSC's use of the eMedNY MEC data when it was the only information available in NYSOH, additional more reliable data should have been considered, especially when readily available to the audit staff. Use of such data by OSC would have produced more accurate conclusions and overpayment estimates.

For example, the following case should not have been included in the estimate. On January 13, 2020, NYSOH pulled an eMedNY MEC date of death of September 7, 2019 for a consumer during a redetermination of their eligibility. The consumer contacted NYSOH on January 29, 2020 and their status was updated in their NYSOH account to reflect they were not deceased. Furthermore, data from SSA displayed in NYSOH indicates this consumer was alive. Using these more recent and more reliable NYSOH-provided data, OSC should have concluded that this consumer was not deceased even though there was no encounter data during the short period between the eMedNY MEC falsely-matched September 2019 date of death and the end of the audit period in February 2020.

Also, the consumer mentioned in one of OSC's comments above failed to renew their coverage for November 1, 2019. At that time, the system pulled the falsely-matched eMedNY MEC date

of death and it was displayed in the account after the consumer's NYSOH coverage ended. However, NYSOH-provided data from SSA shows the consumer was alive at the time their coverage ended. Even though the display of the falsely-matched eMedNY MEC date of death would have no impact if the consumer were to apply again for coverage, the Department removed it from the consumer's account to satisfy OSC's desire to see it removed.

Based on these cases and other similar examples, the Department stands by its previous statement that the \$16.6 million identified by OSC as potential improper or questionable payments is overstated.

**State Comptroller's Comment #2:**

Our audit conclusions were based on the NYSOH system dates of death – data that was provided to us by NYSOH; we did not independently presume this data. Department officials did not object to our methodology during the audit fieldwork. During the fieldwork, we determined NYSOH date of death data conflicted with eMedNY and WMS data. We used recipients' lack of encounter data as a reasonable method to identify recipients who were potentially deceased. The Department relied on eMedNY MEC when it processed the date of death in NYSOH. As the Department states, both the SSA and WMS show the recipient as still alive. If NYSOH had relied on the SSA information, the recipient would not be listed as deceased in its system and would not have been included in our analysis. We note that, as of July 2, 2020, NYSOH still shows a date of death for this recipient, even though the Department argues the individual is alive.

**Response to State Comptroller's Comments #2:**

See response to Comment #1.

**State Comptroller's Comment #3:**

As stated in the previous State Comptroller's Comment, our audit conclusions were based on NYSOH-provided data. It is the responsibility of the Department to review and verify the deceased status of the recipients we identified and to update NYSOH as appropriate.

**Response to State Comptroller's Comments #3:**

See response to Comment #1.

**State Comptroller's Comment #4:**

The Department suggests that the date of death was "falsely presumed." However, we analyzed the information based on the date of death data provided by NYSOH. Our audit reported on flaws in the Department's systems which, in this case, forced the recipient to contact NYSOH in March 2020 to prove that they were alive.

**Response to State Comptroller's Comments #4:**

See response to Comment #1.

**State Comptroller's Comment #5:**

We are pleased the Department is taking action to improve eMedNY's MEC matching algorithm and NYSOH's subsequent processing of eMedNY MEC results, in accordance with Recommendation 6.

**Response to State Comptroller's Comment #5:**

As previously stated, the Department was aware of the issues with the eMedNY MEC matching algorithm and undertook corrective action to address this issue prior to the date the audit commenced.

**State Comptroller's Comment #6:**

During the audit fieldwork, NYSOH officials confirmed that the issue found in this section was, in fact, a system weakness: NYSOH does not prioritize processing when there are multiple reasons for disenrollment. At that time, NYSOH officials said that this weakness would be addressed in an upcoming project.

**Response to State Comptroller's Comment #6:**

The specific situation OSC cited for the five consumers discussed under *Improper NYSOH Processing of Death Information During Applicant Renewal* (page 11) resulted from actions taken by NYSOH Customer Service Representative (CSR) staff for consumers who were reported to be deceased by family members. If the CSR had taken the appropriate action, the consumer's NYSOH coverage would have ended timely and the date of death would have been appropriately transmitted to eMedNY. This finding is not a result of a system issue as incorrectly noted by OSC but has been addressed by NYSOH through retraining of CSR staff.

**State Comptroller's Comment #7:**

We are pleased the Department is taking action to implement our recommendation.

**Response to State Comptroller's Comment #7:**

Thank you for your comment.

**State Comptroller's Comment #8:**

Payments we identified for this recipient were from 2014 to 2019 because the date of death in the NYSOH system was in 1982. Auditors found a potential obituary for this recipient with a date of death in November 2019 and shared it with NYSOH officials. As of July 2, 2020, NYSOH had not updated the date of death for this recipient. It is the responsibility of the Department to review and verify the deceased status of the recipients we identified and to update NYSOH as appropriate.

**Response to State Comptroller's Comment #8:**

The Department continues to individually review the consumers OSC identified as potentially deceased and will take any appropriate action, as needed. The Department has updated the

display of the falsely-matched eMedNY MEC date of death in NYSOH even though leaving it there would have no impact if the consumer were to apply again for coverage.

As stated in response to Comments #1 through #4, OSC's audit conclusions did not always consider all data readily available to the auditors during their review, especially data that was more recent and/or known to be more reliable. From the outset of the audit, the Department clearly and consistently advised OSC that date of deaths in NYSOH pulled from eMedNY MEC were more likely to be false-positive matches. If OSC had utilized all available data for this audit (e.g., NYSOH-provided SSA data, consumer contact with NYSOH representatives and/or the obituary OSC found and provided to the Department), some cases would not have been included in OSC's overpayment estimate because different conclusions would have been drawn. As a result, the \$16.6 million identified by OSC as potential improper or questionable payments is overstated.

**State Comptroller's Comment #9:**

Our report accurately concludes some of the payments we identified are improper and some are questionable. It is the responsibility of the Department to review and verify the deceased status of each of the recipients we identified in this section and to update NYSOH as appropriate. Until the Department reviews each case individually, it cannot confirm whether the eMedNY MEC checks were false-positive hits for these recipients. Our audit reported that the eMedNY MEC is prone to false-positive death matches, and the Department needs to verify that these deaths were, in fact, processed in error.

**Response to State Comptroller's Comment #9:**

See response to Comment #8.

**State Comptroller's Comment #10:**

The \$4.9 million questioned is based on NYSOH's data, which indicated a recipient was deceased. During the audit fieldwork, we determined NYSOH date of death data conflicted with eMedNY and WMS data. Until a reconciliation of recipient eligibility information is performed among these systems, the \$4.9 million remains questionable because claims were paid while NYSOH showed the recipient as deceased. It is the responsibility of the Department to review and verify the deceased status of the recipients we identified and to update NYSOH as appropriate.

**Response to State Comptroller's Comment #10:**

See response to Comment #8.