



## 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

December 29, 2020

Ms. Andrea Inman, Audit Director  
Office of the State Comptroller  
Division of State Government Accountability  
110 State Street – 11<sup>th</sup> Floor  
Albany, NY 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, 2020-F-10 entitled, "Medicaid Overpayments for Inpatient Care Involving Mechanical Ventilation Services."

Thank you for the opportunity to comment.

Sincerely,

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

Enclosure

cc: Diane Christensen  
Jonah Bruno  
Jill Montag  
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**Department of Health Comments on the  
Office of the State Comptroller's  
Follow-Up Audit Report 2020-F-10 entitled, "Medicaid Overpayments  
for Inpatient Care Involving Mechanical Ventilation Services"  
(Report 2018-S-45)**

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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 2020-F-10 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.

Status – Not Implemented

Agency Action – The Office of the Medicaid Inspector General (OMIG) investigates and recovers improper Medicaid payments on behalf of the Department. During the initial audit, we provided OMIG with a file containing the details of the \$975,795 in Medicaid overpayments. From the issuance of the audit report on May 16, 2019 to the Executive's Declaration of a Disaster in the State of New York on March 7, 2020, OMIG vetted the claims that our audit identified, but did not yet take action to review the overpayments and make recoveries. Since then, according to OMIG officials, "due to the COVID-19 pandemic, OMIG has not yet requested the medical documentation from these hospitals, as it would impose an additional burden on those providers."

**Response #1:**

The Office of the Medicaid Inspector General (OMIG) has requested documentation from the medical providers and commenced processes internally to begin its audits and pursue recovery of payments determined to be inappropriate. OMIG will work with providers to address these audit findings while recouping inappropriate payments. Pursuant to 18 NYCRR Part 519, any identified overpayments OMIG pursues for recovery are subject to the provider's right to due process.

**Recommendation #2:**

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

Status – Implemented

Agency Action – In the July 2019 edition of the Medicaid Update (the Department's official publication for Medicaid providers), providers were reminded "to make certain the ICD-10 procedure code reported on a claim for mechanical ventilation represents the actual number of continuous hours the member received mechanical ventilation. A clinical assessment that supports the member's diagnosis, the requirements for mechanical ventilation, and the actual number of continuous hours the member received mechanical ventilation must be included in the member's medical record and may be subject to review and audit."

**Response #2:**

The Department confirms agreement with this report.

**Recommendation #3:**

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

Status – Implemented

Agency Action - The Department contracted with Island Peer Review Organization (IPRO) to review Medicaid fee-for-service hospital inpatient claims for mechanical ventilation to ensure that these services were accurately coded and reflect the services provided to the member. According to Department officials, IPRO reviewed inpatient claims from October 2015 to May 2019 (excluding the claims we identified in the initial audit) that had ICD procedure codes for 96 hours or more of mechanical ventilation services, but had lengths of stay that were less than 96 hours. At the time of our follow-up review, IPRO acted upon correcting four claims. Note: While we credit the Department for taking steps to implement the recommendation, we also encourage the Department to assess the eMedNY system limitations identified by the audit, specifically, eMedNY's lack of controls to identify and flag claims where it is unlikely the patient received 96 or more consecutive hours of mechanical ventilation services, and consider improvements where appropriate.

**Response #3:**

The Department confirms agreement with this report.