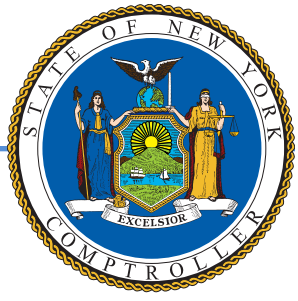
Department of Health

Medicaid Program: Improper Medicaid Managed Care Payments for Durable Medical Equipment, Prosthetics, Orthotics, and Supplies on Behalf of Recipients in Nursing Homes

Report 2020-S-61 | April 2022

OFFICE OF THE NEW YORK STATE COMPTROLLER
Thomas P. DiNapoli, State Comptroller

Division of State Government Accountability



Audit Highlights

Objective

To determine whether Medicaid managed care organizations inappropriately paid for durable medical equipment, prosthetics, orthotics, and supplies while recipients were residing in nursing homes. The audit covered the period from January 2016 to December 2020.

About the Program

The New York State Medicaid program, administered by the Department of Health (Department), provides a wide range of medical services to individuals who are economically disadvantaged and/or have special health care needs. Many of the State's Medicaid recipients receive their services through managed care, whereby the Department pays managed care organizations (MCOs) a monthly premium for each enrolled recipient and, in turn, the MCOs arrange for the provision of health care services for Medicaid recipients and reimburse providers.

Medicaid recipients, including those enrolled in managed care, generally receive necessary durable medical equipment, prosthetics, orthotics, and supplies (DMEPOS) as a benefit of the program. Durable medical equipment encompasses devices and equipment that can withstand repeated use and that have been ordered by a practitioner in the treatment of a specific medical condition. Examples include walkers and wheelchairs. A prosthetic device replaces a missing body part, while an orthotic device supports a weak or deformed body part. Medical supplies are disposable items for medical use such as gauze and wipes. As part of the Medicaid nursing home reimbursement rates, recipients in nursing homes are to be provided with DMEPOS (the rates do not include items that are custom made for individual use).

Key Finding

For the period January 2016 through December 2020, we identified $9.6 million in potential MCO overpayments for DMEPOS items that likely should have been provided by nursing homes as part of the daily all-inclusive rate paid to those facilities.

Key Recommendations

- Review the $9.6 million in potential overpayments for DMEPOS and recover as appropriate.
- Remind DMEPOS providers to confirm recipients' locations and, if a recipient is in a nursing home, to ensure the items are not included in the facility's rate before billing MCOs.
- Advise MCOs to evaluate the feasibility of developing controls to prevent these types of overpayments and take steps to ensure corresponding corrective actions are implemented.
- Monitor DMEPOS claims paid by MCOs to ensure payments are in compliance with policies for DMEPOS provided to individuals residing in nursing homes, and provide guidance as appropriate.

Office of the New York State Comptroller
Division of State Government Accountability

April 19, 2022

Mary T. Bassett, M.D., M.P.H.
Commissioner
Department of Health
Corning Tower
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Albany, NY 12237

Dear Dr. Bassett:

The Office of the State Comptroller is committed to helping State agencies, public authorities, and local government agencies manage their resources efficiently and effectively. By so doing, it provides accountability for the tax dollars spent to support government operations. The Comptroller oversees the fiscal affairs of State agencies, public authorities, and local government agencies, as well as their compliance with relevant statutes and their observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations. Audits can also identify strategies for reducing costs and strengthening controls that are intended to safeguard assets.

Following is a report of our audit of the Medicaid program entitled *Improper Medicaid Managed Care Payments for Durable Medical Equipment, Prosthetics, Orthotics, and Supplies on Behalf of Recipients in Nursing Homes*. The audit was performed 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.

This audit's results and recommendations are resources for you to use in effectively managing your operations and in meeting the expectations of taxpayers. If you have any questions about this report, please feel free to contact us.

Respectfully submitted,

Division of State Government Accountability

Contents

Glossary of Terms

Term	Description	Identifier
Department	Department of Health	*Auditee*
DMEPOS	Durable medical equipment, prosthetics, orthotics, and supplies	*Key Term*
MCO	Managed care organization	*Key Term*
MDW	Medicaid Data Warehouse	*System*
OMIG	Office of the Medicaid Inspector General	*Agency*

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, 2021, New York's Medicaid program had approximately 7.3 million recipients and Medicaid claim costs totaled about $68.1 billion. The federal government funded about 56.5% of New York's Medicaid claim costs, and the State and localities (the City of New York and counties) funded the remaining 43.5%.

The Department of Health (Department) administers the State's Medicaid program. Many of the State's Medicaid recipients receive their services through managed care, whereby the Department pays managed care organizations (MCOs) a monthly premium for each enrolled recipient and, in turn, the MCOs arrange for the provision of health care services and reimburse providers for those services. MCOs then submit claims (referred to as encounter claims) to the Department to inform it of each service provided to their enrollees.

Medicaid recipients, including those covered by managed care under the Medicaid Managed Care Model Contract, receive necessary durable medical equipment, prosthetics, orthotics, and supplies (DMEPOS) as a benefit of the program. Durable medical equipment encompasses devices and equipment that can withstand repeated use and that have been ordered by a practitioner in the treatment of a specific medical condition. A prosthetic device replaces a missing body part while an orthotic device supports a weak or deformed body part. Medical supplies are disposable items for medical use such as gauze, wipes, and collagen dressings.

According to the Department's Residential Health Services Manual Policy Guidelines, as part of Medicaid nursing home reimbursement rates, recipients in nursing homes are to be provided with a full range of services, including DMEPOS. This consists of the use of all equipment, medical supplies, and customarily stocked equipment, including but not limited to crutches, walkers, wheelchairs, and other supportive equipment. Medicaid nursing home reimbursement rates do not include items that are custom made (i.e., fabricated solely for a specific patient from mainly raw materials that cannot be readily changed to conform to another patient's needs). Furthermore, a nursing home is required to provide residents with medical/surgical supplies and general standard medical equipment.

According to Title 18, Section 505.5(d)(1)(iii) of the New York Codes, Rules and Regulations, separate Medicaid payments will not be made for items provided by a facility or organization when the cost of these items is included in the entity's reimbursement rate. Many of the MCOs' DMEPOS policies are aligned with the New York State Medicaid Program's DMEPOS Manual: Policy Guidelines, which states that "claims for durable medical equipment, medical/surgical supplies, prosthetic and orthotic appliances and devices, oxygen, and enteral formulas provided to a recipient in a residential health care facility whose Medicaid rate includes the cost of such items, will be denied." It also states that it is the dispensing provider's responsibility to verify with the facility of the recipient whether the item is included in the facility's Medicaid rate. Therefore, DMEPOS providers should not be paid separately for

DMEPOS for recipients residing in nursing homes if these facilities include such items in their all-inclusive rates.

The Office of the Medicaid Inspector General (OMIG) investigates and recovers improper Medicaid payments on behalf of the Department. As such, it has a role in recovering inappropriate Medicaid payments for DMEPOS claims paid during recipients' stays in nursing homes that include these items in their all-inclusive rates.

Audit Findings and Recommendations

For the period January 2016 through December 2020, we identified $9.6 million in potential MCO overpayments for DMEPOS items that likely should not have been paid separately from the daily all-inclusive rate paid to nursing homes. The Department relies on MCOs to process and pay claims accurately. We found that neither the Department nor OMIG monitored whether Medicaid MCOs appropriately paid for DMEPOS on behalf of recipients residing in nursing homes where all-inclusive rates included such items.

Overlapping Nursing Home and DMEPOS Payments

We identified 159,976 claims totaling $9.6 million where MCOs paid for DMEPOS that were likely included in the daily all-inclusive rate paid to nursing homes (see table below). Therefore, the Medicaid program likely incurred a cost for the same DMEPOS twice. The claims incorrectly paid on behalf of recipients residing in nursing homes included items such as oxygen concentrators, incontinence supplies, and enteral formulas.

Audit Findings Summary

DMEPOS Service Type	Total Payment Amount	Number of Claims
Durable medical equipment (e.g., oxygen concentrator, home ventilator, wheelchair)	$5,636,787	87,236
Medical/surgical supplies (e.g., disposable underpads, incontinence products, enteral feeding supply kits)	3,067,680	69,421
Orthotic and prosthetic devices, hearing services, and prescription footwear (e.g., walking boot, addition to lower-limb prosthesis, knee orthosis)	913,565	3,319
Totals	**$9,618,032**	**159,976**

We judgmentally selected 225 DMEPOS claims from five MCOs totaling $77,356 and sent them to the MCOs for review. The sample included 50 recipients (10 from each MCO) who were residing in nursing homes at the time the DMEPOS was provided. The MCOs agreed that all the sampled claims were incorrectly paid because the DMEPOS items provided should not have been billed separately from the facility rates. For example, from December 2016 to October 2019, a Medicaid MCO overpaid 33 claims totaling $6,448 for incontinence supplies on behalf of a recipient who resided in a nursing home at the time the claims were paid. In another case, from March 2017 to December 2020, a Medicaid MCO overpaid 19 claims totaling $8,536 for tracheostomy supplies for a recipient in a nursing home.

MCO officials cited various reasons for the overpayments. Two MCO officials explained that the providers submitted the DMEPOS claims identifying the place of service as the recipients' homes, which prevented the payment system from denying

the claims while the recipients were residing in nursing homes. At another MCO, providers continued to bill for rented DMEPOS items after recipients entered nursing homes. The MCO responded that when the recipients entered the nursing homes, it expected the rentals would be included in the facilities' all-inclusive rates. Also, another MCO official stated it's difficult for the MCO to identify overlapping payments because the DMEPOS claims and nursing home claims may not be received at the same time. All the responses to our samples indicated that the MCOs are reviewing the reasons for incorrect payments and are considering implementing additional review protocols to specifically address DMEPOS provided while recipients are in nursing homes.

The Department's Division of Health Plan Contracting and Oversight is responsible for monitoring MCOs' compliance with applicable laws and regulations; however, this unit does not currently perform any monitoring or reviews of MCOs pertaining to DMEPOS claims specifically. Furthermore, OMIG's DMEPOS audits historically have focused on fee-for-service claims and not managed care claims. The Department should provide oversight to MCOs to ensure providers are adhering to stated guidelines regarding DMEPOS claims and that the MCOs have controls in place to prevent the overpayments we identified.

Recommendations

1. Review the $9.6 million in payments for DMEPOS claims and recover as appropriate, beginning with the $77,356 in sampled claims that MCOs agreed were overpaid.

2. Remind DMEPOS providers to confirm recipients' locations prior to dispensing DMEPOS and, if a recipient is in a nursing home, to ensure the items are not included in the facility's rate before billing MCOs.

3. Advise MCOs to evaluate the feasibility of developing controls to prevent these types of overpayments and take steps to ensure corresponding corrective actions are implemented.

4. Monitor DMEPOS claims paid by MCOs to ensure payments are in compliance with policies, rules, and regulations for DMEPOS provided to individuals residing in nursing homes, and provide guidance as appropriate.

Audit Scope, Objective, and Methodology

The objective of our audit was to determine whether MCOs inappropriately paid for DMEPOS while recipients were residing in nursing homes. The audit covered the period from January 2016 to December 2020.

To accomplish our audit objective and assess related internal controls, we interviewed officials and gathered information from the Department and MCOs; examined the Department's relevant Medicaid policies and procedures; and reviewed applicable federal and State laws, rules, and regulations. We interviewed OMIG officials to gain an understanding of their audit efforts related to our audit objective. We reviewed data from eMedNY (the Department's Medicaid claims processing and payment system) and the Medicaid Data Warehouse (MDW) and determined the data was reliable. We used information from eMedNY and the MDW to identify encounter claims for DMEPOS paid by MCOs and to identify nursing home stays for those recipients who received DMEPOS from MCOs.

We compared the service dates of the DMEPOS encounter claims to the nursing home services to identify when the two services overlapped. We removed DMEPOS claims with Medicare payments for recipients who were enrolled in Medicare and we also removed claims for procedure codes that are for custom-made DMEPOS items according to the eMedNY procedure code reference file.

We provided samples for review to five MCOs we identified with high dollars of DMEPOS that overlapped with nursing home stays. The sampled claims were judgmentally selected based on the number of DMEPOS claims that overlapped with nursing home stays for each recipient (both high and low overlap instances were selected); and for each recipient, we selected procedure codes with high aggregate payment amounts. Because the samples were judgmentally selected, the results cannot be projected to the population as a whole. We shared our methodology and findings with officials from the Department and OMIG during the audit for their review.

Statutory Requirements

Authority

The audit was performed 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 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. These duties may be considered management functions for purposes of evaluating organizational independence under generally accepted government auditing standards. In our professional judgement, these duties do not affect our ability to conduct this independent performance audit of the Department's oversight and administration of DMEPOS benefits.

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 it. Department officials concurred with most of the audit recommendations and indicated that certain actions have been and will be taken to address them. We address certain Department remarks in our State Comptroller's Comment, which is embedded within the Department's response.

Within 180 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.

Agency Comments and State Comptroller's Comment

NEW YORK STATE OF OPPORTUNITY. Department of Health

KATHY HOCHUL
Governor

MARY T. BASSETT, M.D., M.P.H.
Commissioner

KRISTIN M. PROUD
Acting Executive Deputy Commissioner

March 2, 2022

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 2020-S-61 entitled, "Department of Health Medicaid Program: Improper Medicaid Managed Care Payments for Durable Medical Equipment, Prosthetic Orthotics, and Supplies on Behalf of Recipients in Nursing Homes."

Thank you for the opportunity to comment.

Sincerely,

Kristin M. Proud

Kristin M. Proud
Acting Executive Deputy Commissioner

Enclosure

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Department of Health Comments to Draft Audit Report 2020-S-61 entitled, "Medicaid Program: Improper Medicaid Managed Care Payments for Durable Medical Equipment, Prosthetics, Orthotics, and Supplies on Behalf of Recipients in Nursing Homes" by the Office of the State Comptroller

The following are the responses from the New York State Department of Health (the Department) to Draft Audit Report 2020-S-61 entitled, "Medicaid Program: Improper Medicaid Managed Care Payments for Durable Medical Equipment, Prosthetics, Orthotics, and Supplies on Behalf of Recipients in Nursing Homes" by the Office of the State Comptroller (OSC).

Recommendation #1:

Review the $9.6 million in payments for durable medical equipment, prosthetics, orthotics, and supplies (DMEPOS) claims and recover as appropriate, beginning with the $77,356 in sampled claims that managed care organizations (MCOs) agreed were overpaid.

Response #1:

The Office of the Medicaid Inspector General (OMIG) is performing data analysis on the OSC-identified payments not already adjusted or recovered to ensure the data used by OSC is complete and to confirm the accuracy of the claims detail for use in OMIG audit activities. OMIG will appropriately recover any remaining overpayments identified. Pursuant to State regulations, any identified overpayments OMIG pursues for recovery are subject to the provider's right to due process.

Recommendation #2:

Remind DMEPOS providers to confirm recipients' locations prior to dispensing DMEPOS and, if a recipient is in a nursing home, to ensure the items are not included in the facility's rate before billing MCOs.

Response #2:

The Department is identifying the best mechanism to remind DMEPOS providers to confirm, prior to billing MCOs, the member's location and, if a member is in a nursing home, to ensure the DMEPOS item is not included in the facility's rate.

Recommendation #3:

Advise MCOs to evaluate the feasibility of developing controls to prevent these types of overpayments and take steps to ensure corresponding corrective actions are implemented.

Response #3:

The Department has asked MCOs to evaluate the feasibility of developing controls, to the extent such are not in place already, to prevent DMEPOS overpayments for services obtained by members residing in the nursing facilities and to ensure corresponding corrective actions are implemented.

Recommendation #4:

Monitor DMEPOS claims paid by MCOs to ensure payments are in compliance with policies, rules, and regulations for DMEPOS provided to individuals residing in nursing homes, and provide guidance as appropriate.

Response #4:

The Department issues monthly capitation payments to MCOs inclusive of all covered benefits and services, including DMEPOS, unless the DMEPOS is custom ordered in which case the payment would be made fee for service. It is the MCO's responsibility to implement appropriate controls and recoup payment that may have been made erroneously to the nursing home outside of the nursing home rate agreed to.

State Comptroller's Comment – The Department is responsible for ensuring MCOs comply with established Medicaid standards. We encourage the Department or the OMIG to monitor the issues identified in the audit to prevent improper payments in the future.

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