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STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

September 8, 2022

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

Re: Cost Saving Opportunities on
Payments of Medicare Part C Claims
Report 2022-F-14

Dear Dr. Bassett:

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 have followed up on the actions taken by officials of the Department of Health (Department) to implement the recommendations contained in our audit report, *Cost Saving Opportunities on Payments of Medicare Part C Claims* (Report [2020-S-65](#)).

Background, Scope, and Objective

Many of the State's Medicaid recipients are also enrolled in Medicare, and are referred to as "dual-eligibles." The Medicare program has multiple parts. Part A provides hospital insurance and Part B provides medical insurance for doctors' services and outpatient care. Under Part C, private companies administer Medicare benefits through different health care plans, known as Medicare Advantage plans, that provide the services covered under Medicare Parts A and B. When a dual-eligible recipient receives services, Medicaid will typically pay for any cost-sharing liabilities including Medicare deductibles, coinsurance, and copayments.

The Centers for Medicare & Medicaid Services (CMS) allows state Medicaid programs to determine the payment methodology used for Part C cost-sharing liabilities. State Medicaid programs can opt to pay: the full Medicare cost-sharing liability, the state's standard Medicaid fee, or a rate between those two amounts approved by CMS. Effective July 1, 2016, the New York State Legislature approved a plan for Medicaid to pay 85% of dual-eligibles' copayment or coinsurance on Medicare Part C outpatient claims, except for ambulance and psychology services.

We issued our initial report on September 21, 2021. Our objective was to determine whether Medicaid cost savings could be achieved by modifying the reimbursement methodology for Medicare Part C cost-sharing claims in accordance with federal requirements. The audit covered the period July 1, 2016 to December 31, 2020. The initial audit found that New York's current Medicaid payment rules for Medicare Part C cost-sharing liabilities compared to the allowable alternatives have significantly higher costs. Additionally, there is a clear inconsistency

in Medicaid payment rules for Medicare Part B and Part C outpatient services that allows Medicaid's payment of Part C cost-sharing to be greater than Part B cost-sharing for the same services.

If New York's Medicaid program had limited cost-sharing so that the total payment to a provider (Medicare's payment plus Medicaid's payment of what was billed for the copayment or coinsurance) was no more than the typical Medicaid fee, it could have saved over \$419 million during the audit period. The audit found that, with changes to the Part C cost-sharing payment methodology, the Medicaid program could save over \$122 million annually.

The objective of our follow-up audit was to assess the extent of the implementation, as of July 7, 2022, of the one recommendation included in our initial audit report.

Summary Conclusions and Status of Audit Recommendations

The initial report's audit recommendation was not implemented because Department officials declined to take any actions to address the significant potential cost savings identified.

Follow-Up Observation

Recommendation 1

Formally re-evaluate the existing Medicaid methodology for processing and paying Medicare Part C cost-sharing liabilities (including the necessity of exemptions to payment limitations for ambulance, psychology, and inpatient services), and engage other stakeholders, as appropriate.

Status – Not Implemented

Agency Action – According to Department officials, the Department has taken no actions and are unaware of any plans to implement the recommendation from the original audit. As such, the Department has not pursued any proactive actions since the Social Services Law §367-a was changed in 2016. We strongly encourage the Department to reconsider this recommendation and formally re-evaluate the existing Medicaid methodology for processing and paying Medicare Part C cost-sharing liabilities.

Major contributors to this report were Thomas Sunkel, Tim Garabedian, and Jennifer Kirby.

We would appreciate your response to this report within 30 days, indicating any actions planned to address the unresolved issues discussed in this report. We thank the management and staff of the Department for the courtesies and cooperation extended to our auditors during this review.

Very truly yours,

Mark Breunig
Audit Manager

cc: Mr. Robert Schmidt, Department of Health
Mr. Frank Walsh, Jr., Acting Medicaid Inspector General