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

October 26, 2022

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 Andrea Inman:

Enclosed are the Department of Health's comments on the Office of the State Comptroller's Follow-Up Audit Report, **2022-F-2** entitled," Improper Medicaid Payments Involving Fee-for-Service (FFS) Claims for Recipients with Multiple Client Identification Numbers (CINs) (Report 2019-S-22)" by the Office of the State Comptroller (OSC)."

Thank you for the opportunity to comment.

Sincerely,

Kristin M. Proud

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Acting Executive Deputy Commissioner

Enclosure

cc: Diane Christensen
Amir Bassiri
Geza Hrazdina
Andrea Martin
James Dematteo
James Cataldo
Amber Rohan
Brian Kiernan
Timothy Brown
Michael Atwood
Melissa Fiore
OHIP Audit
DOH

Department of Health Comments on the Office of the State Comptroller's Follow-Up Audit Report 2022-F-2 entitled, "Improper Medicaid Payments Involving Fee-for-Service Claims for Recipients With Multiple Client Identification Numbers" (Report 2019-S-22)

The following are the responses from the New York State Department of Health (Department) to Follow-Up Audit Report 2022-F-2 entitled, "Improper Medicaid Payments Involving Fee-for-Service (FFS) Claims for Recipients With Multiple Client Identification Numbers (CINs) (Report 2019-S-22)" by the Office of the State Comptroller (OSC).

Recommendation #1:

Review the remaining $16 million in managed care payments we identified and make recoveries, as appropriate.

Status – Partially 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 overpayments we identified. As of March 4, 2022, OMIG had only recovered approximately $3.3 million (20%) of the $16 million in improper payments we identified.

According to OMIG officials, all claims identified in the initial audit have been reviewed and OMIG audits are ongoing. However, officials were unable to provide supporting documentation to substantiate this review. Of the $12.7 million in unrecovered claims, we noted that OMIG may have already lost the opportunity to recover about $6.3 million (50%) due to federal look-back provisions. We encourage the Department and OMIG to take prompt action on the remaining improper payments to prevent further loss of recoveries.

Response #1:

OMIG continues to perform foster care audits of recipients with multiple CINs. OMIG performs its own extraction of data from the Medicaid Data Warehouse which may include those OSC-identified overpayments 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. Pursuant to State regulations, any identified overpayments OMIG pursues for recovery are subject to the provider's right to due process.

Recommendation #2:

Evaluate the feasibility of creating a control to prevent the creation of multiple CINs when recipients are enrolled in foster care.

Status – Not Implemented

Agency Action – Our initial audit determined that New York City Administration of Children's Services' (ACS) use of the upstate Welfare Management System (WMS) to process Medicaid enrollment for individuals in foster care in New York City contributed to the creation of multiple CINs. The Department continues to work with the New York City Human Resources

Administration (HRA) and ACS to enhance efforts to identify and resolve cases of multiple CINs involving foster care members. However, although the Department stated it evaluated the feasibility of creating additional controls to prevent multiple CINs for recipients in foster care, it could not provide evidence of these efforts upon our requests.

Response #2:

The Department disagrees with this assessment and continues to work with state and local government partners to ensure the integrity of the program. As previously stated in response to the original audit and discussed with OSC during the field work of the current audit, the Department has edits in place to prevent the assignment of a CIN if the consumer has an existing CIN. In response to this and other audits, the Department has evaluated the feasibility of adding additional criteria to current data matching to further prevent the creation of multiple CINs for children enrolled in foster care. However, the individual's social security number (SSN) and demographics are the key data match criteria used to identify whether the individual applicant has an existing CIN that can be used or whether a new CIN is needed. Due to the emergent nature of foster care placement SSNs are frequently unavailable at the time the child enters the system and the Medicaid case is opened. Meetings were held with HRA and ACS on August 17, 2021, December 15, 2021, June 22, 2022, August 8, 2022, and are scheduled on an ongoing basis to communicate the importance of including the child's SSN in the foster care case record with regard to CIN generation and assignment. HRA and ACS have implemented policies and procedures to guide staff in completing the demographic data for children entering foster care. However, to ensure children are not incorrectly prohibited from obtaining Medicaid, the New York State Office of Children and Family Services does not require ACS or other Local District Children and Family Service Departments to enter the child's SSN at foster care case opening, therefore, existing edits in the two Welfare Management Systems (WMS-Upstate/WMS-Downstate), NY State of Health (NYSOH) and eMedNY are circumvented for this limited population.

On July 28, 2020, HRA issued policy 2020 MAP INF-13, *Identifying and Routing Cases with Duplicate CIN and Duplicate Capitated Payments*, which the Department shared with OSC. This guidance explains how duplicate CINs are to be identified and resolved by the agency. The policy includes instructions for reviewing and distributing reports to the appropriate program areas to resolve duplicate CINs and recover duplicate capitated payments made to managed care plans. This guidance was also provided to ACS.

Recommendation #3:

Review the remaining $15 million in payments ($12.5 million in managed care premiums + $2.5 million in FFS claims) we identified and make recoveries, as appropriate.

Status – Not Implemented

Agency Actions – As of March 4, 2022, only $150,019 (about 1%) of the $15 million in overpayments we identified were recovered. In addition, OMIG was unable to provide evidence that the recoveries were made in response to this audit recommendation. In fact, $42,591 in recoveries were due to voided claims. Voided claims can be initiated by providers and are not necessarily based on OMIG recovery actions.

In response to the COVID-19 public health emergency, and in an effort to prevent a loss in medical coverage, federal guidance allowed the State to keep people enrolled in Medicaid without going through the annual renewal process. According to OMIG officials, this prevented them from pursuing recovery of the overpayments we identified because it would require terminating a multiple CIN. However, Department officials indicated that the duplicate CIN recovery and disenrollment process was not affected by the COVID-19 public health emergency because it would not result in members losing coverage, and duplicate CIN cases have been closed throughout the pandemic. Of note, all overpayments identified in our initial audit were for a scope period prior to the pandemic.

Of the $14.8 million in overpayments not yet recovered, OMIG may have already lost the opportunity to recover about $4.7 million (32%) due to federal look-back provisions. We encourage the Department and OMIG to take prompt action on the remaining improper payments to prevent further loss of recoveries.

Response #3:

OMIG continues to research and evaluate the managed care/FFS and concurrent FFS enrollment areas to determine the most efficient audit approach to identify and recover duplicate payments in these areas, as allowable under the provisions of the Managed Care Model Contracts. OMIG's development of audits in these areas is ongoing. However, Local Departments of Social Services (Local District) are responsible for submitting retroactive disenrollments, of which the volume has been low. It is important to note that the managed care/FFS scenario is included in the retroactive disenrollment process.

Recommendation #4:

Develop a process to identify and recover:

- *Improper managed care premium payments for non-foster care recipients with concurrent FFS enrollment; and*

- *Improper FFS payments for recipients with multiple FFS enrollments under different CINs.*

Status – Not Implemented

Agency Action – In response to the initial audit, OMIG stated it was researching and evaluating the Managed Care Organization/FFS and concurrent FFS enrollment areas to determine the most efficient audit approach to identify and recover duplicate payments. However, officials stated the COVID-19 public health emergency prevented OMIG from developing such an audit approach, and OMIG was unable to provide evidence that a process was under review.

As stated in the Agency Action section of Recommendation #3, Department officials indicated that the duplicate CIN recovery and disenrollment process was not affected by the COVID-19 public health emergency as it does not cause members to lose coverage (one multiple CIN remains active), and multiple CIN cases have been closed throughout the pandemic. We encourage the Department and OMIG to prioritize the development of a process to identify and recover these types of improper payments to prevent further loss of Medicaid dollars.

Response #4:

OMIG has an established audit process to recover inappropriate payments for foster care recipients with multiple CINs in managed care/FFS.

OMIG continues to research and evaluate the managed care/FFS and concurrent FFS enrollment areas to determine the most efficient audit approach to identify and recover duplicate payments in these areas, as allowable under the provisions of the Managed Care Model Contracts. OMIG's development of audits in these areas is ongoing. However, Local Districts are responsible for submitting retroactive disenrollments, of which the volume has been low. It is important to note that the managed care/FFS scenario is included in the retroactive disenrollment process.

OMIG's evaluation of multiple CIN-related issues has determined that the Same-Plan and Different-Plan projects present the greatest risk for overpayments. Accordingly, those projects have been prioritized.

Recommendation #5:

Review and resolve the remaining 16,526 cases of multiple CINs we identified to prevent future improper payments.

Status – Partially Implemented

Agency Action – Department officials stated that they resolved all cases of multiple CINs identified by our initial audit. However, we found 192 cases where both CINs were still active and not linked, and another 133 cases where the CINs were linked but still active.

After the Department verifies CINs belong to the same individual, coverage is terminated on one CIN and the pair is linked to prevent future Medicaid overpayments. However, the CIN itself cannot be terminated and, as a result, the CIN can be reopened (or unlinked). According to Department officials, many departments are able to link and unlink CINs. As a result, the Department will periodically conduct a review to see if additional actions were taken on CINs after termination. This monitoring is also done to ensure Local Districts have linked CIN pairs. We encourage the Department to review and resolve the 325 (192 + 133) cases of active multiple CINs from our initial report.

Response #5:

While the Department fully resolved the 16,256 CINs identified in the original audit, as OSC acknowledges, at times CINs that have been linked and closed may become unlinked and reactivated. As noted in the report, the Department monitors CINs to determine if additional action needs to be taken after one of the CINs has been closed and the pair are linked. The Department will research the remaining cases and refer the active CINs to the Local District or the NYSOH for termination. Once the duplicate CIN is closed, the Department will link the CIN pairs.

Recommendation #6:

Correct eMedNY system controls to prevent payment of claims after multiple CINs are linked.

Status – Not Implemented

Agency Action - In response to our audit, the Department implemented new processes to monitor and resolve multiple CINs. However, no action has been taken to correct the eMedNY system to prevent payment of claims after multiple CINs are linked.

The Department stated it met with eMedNY system staff to discuss the viability of correcting system controls to prevent payment of claims after CINs are linked, and it was determined that fixing the issue was not worth the resources. However, officials were unable to provide us with any proof of these discussions. We encourage the Department to further evaluate the correction of eMedNY system controls to prevent future overpayments.

Response #6:

The Department continues to disagree with this recommendation. Claims paid after multiple CINs were linked represent 0.3 percent of the total claims identified in the audit by OSC. As conveyed during the original audit and during the field work of the current audit, the Department conducted a feasibility assessment based on OSC's findings. After multiple discussions between eMedNY and Departmental program staff, the Department determined that additional system controls would not materially mitigate future overpayments. Furthermore, as OSC indicated in the original report, the Department added additional program resources towards multiple CIN research and resolution, which continues to result in improved processes, and eliminating the potential of future overpayments

While the Department did not have documentation of the multiple discussions with eMedNY staff to evaluate the feasibility of implementing a system edit, the Department conveyed the results of the discussions that occurred during meetings held on the following dates:

- March 2, 2020
- March 6, 2020
- April 28, 2020