



Department of Health

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May 26, 2023

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-37 entitled, Improper Payments of Medicare Buy-in Premiums for Ineligible Recipients.

Thank you for the opportunity to comment.

Sincerely,

Megan E. Baldwin
Acting Executive Deputy Commissioner

Enclosure

cc: Amir Bassiri
Jacqueline McGovern
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**Department of Health Comments to
Follow-Up Audit Report 2022-F-37 entitled,
“Improper Payments of Medicare Buy-in Premiums for Ineligible
Recipients” (Report 2020-S-35) by the Office of the State Comptroller**

The following are the responses from the New York State Department of Health (the Department) to Follow-Up Audit Report 2022-F-37 entitled, “Improper Payments of Medicare Buy-in Premiums for Ineligible Recipients” by the Office of the State Comptroller (OSC).

Recommendation #1:

Formally remind Local Districts to ensure all individuals enrolled in the Buy-in Program by CMS (Retroactively and non-retroactively) have corresponding benefit eligibility periods in eMedNY.

Status – Implemented

Agency Action – Our initial audit found Local Districts did not take steps to ensure proper benefit eligibility periods were created in eMedNY for all individuals enrolled in the Buy-in Program, and that Buy-in Program coverage was terminated in eMedNY timely for those who were no longer eligible for the benefit. The Department published two General Information System (GIS) messages in May 2021 and two in February 2023. The GIS messages reminded Local Districts about: the need to review and take appropriate action on an existing monthly report that identifies individuals whose benefit eligibility period has expired but for whom Medicaid continues to pay premiums, including establishing Medicaid eligibility to support the coverage if the individual should remain in the Buy-in Program; the WMS codes that automatically close an individual’s Buy-in Program coverage; a new WMS code being designated as an auto-close code; and the need to manually close Buy-in Program coverage for individuals transitioning from Local Districts to the NY State of Health.

Response #1:

The Department confirms agreement with the status of this recommendation.

Recommendation #2:

Increase communication with and oversight of Local Districts to ensure timely closure of Buy-in Program cases. Take actions to:

- *Formally remind Local Districts to promptly close ineligible individuals’ Buy-in Program Coverage in eMedNY.*
- *Develop an information-sharing process between all Department Stakeholders to ensure knowledge and use of all closing codes that the Department designates as auto-close codes to end Buy-in Program coverage and that, when new closing codes are added or modified within WMS, the Department is notified promptly to evaluate the impact of the code changes on the Buy-in Program and, if appropriate, designate such closing codes as auto-close codes within eMedNY.*
- *Design and develop compensatory controls for timely identification and resolution of Buy-in Program cases not closed via the auto-close process.*

- *Prevent improper payments for individuals who are currently not identified by the Department's monthly report, including individuals who were retroactively added to the Buy-in Programs for months in which they did not have a benefit eligibility period.*

Status – Implemented

Agency Action – The initial audit found that better communication and coordination of effort between the Department and Local Districts was needed to help ensure Medicaid pays Buy-in Program premiums only for eligible recipients. In response, the Department has taken the following actions:

- Published a GIS message in May 2021 reminding Local Districts of the need to promptly close ineligible individuals' Buy-in Program coverage in eMedNY.
- Developed an information-sharing process with Local Districts. The process evaluates new WMS codes to determine if the codes should be added to the auto-close list to close the Buy-in Program.
- Implemented a change in December 2021 to automatically void certain SSA-initiated transactions that add individuals to the Buy-in Program. Department staff monitor reports from this project and then process the Buy-in Program transactions that correctly align with the individuals' benefit eligibility periods.
- Improved the accuracy of the monthly report that identifies individuals whose benefit eligibility period has expired but for whom Medicaid continues to pay premiums by better matching recipients to the monthly report.

Response #2:

The Department confirms agreement with the status of this recommendation.

Recommendation #3:

Review the individuals identified by our audit who have active Buy-in Program coverage but do not have a benefit eligibility period in eMedNY, and promptly remove them from the Buy-in Program, as warranted.

Status – Not Implemented

Agency Action – Our initial audit found Local Districts did not take steps to ensure that proper benefit eligibility periods were created in eMedNY for all individuals enrolled in the Buy-in Program and that Buy-in Program coverage was terminated timely in eMedNY for those who were no longer eligible for the benefit. The Department stated that, due to the coronavirus disease 2019 public health emergency, Buy-in Program removal was currently pending and, therefore, individuals has not been removed. The Department plans to start Buy-in Program removal in July 2023.

Response #3:

This recommendation could not be implemented during the public health emergency because of the continuous coverage requirement in the Families First Coronavirus Response Act. The Department will take steps to remove the appropriate individuals from the Buy-In Program beginning in July 2023 as part of the unwind process required by CMS.

Recommendation #4:

Review and recover premiums pertaining to the \$372,716 paid for individuals identified as deceased, as warranted.

Status – Partially Implemented

Agency Action – The initial audit found Medicaid made \$372,716 in premium payments to purchase Medicare coverage for 282 individuals identified as deceased by eMedNY and/or an independent verification service. The Department reviewed the individuals and premiums, including comparing the dates of death between the State Online Query, Enrollment Medicare Online, and eMedNY. Department officials identified \$57,358 in Buy-in Program credits, and also requested \$44,684 in recoveries from CMS. Department officials determined \$215,753 cannot be recovered because the date of death in eMedNY was incorrect. The Department is reviewing the remaining \$54,921 to determine if it can be recovered.

Response #4:

In March 2023, the Department requested that the \$44,684 identified as recoverable premium payments be refunded by CMS. The Department is waiting for CMS to complete the review of these cases. It generally takes 45-60 days for CMS to review these requests and issue refunds, if appropriate.

The Department is completing its review of the remaining \$54,921 that is potentially due and expects to send a file to CMS requesting refunds in May 2023.

Recommendation #5:

Follow up with CMS to request payment relief on the Department's portion of \$13 million pertaining to the 3,439 cases of retroactive automatic additions of eligibility that exceeded the allowed two-year limit for retroactivity. Implement corresponding processes to identify these transactions and request payment relief from CMS going forward.

Status –Partially Implemented

Agency Action – The initial audit identified 3,439 individuals who were automatically added to the Buy-in Program by CMS retroactively for more than two years. According to the Department, Medicaid premium liability cannot be greater than two years, and the State can request payment relief on retroactive additions of Supplemental Security Income recipients when the retroactivity extends beyond the two-year limit. The Department contacted SSA in July 2022 to request payment relief on the Department's portion of the \$13 million. Payment relief was still pending with SSA and CMS at the time of our follow-up. Additionally, the Department stated it is

developing a database to identify retroactive Buy-in Program additions that exceed the limit for retroactivity and request equitable relief.

Response #5:

The Department has reached out to SSA multiple times, the latest being on March 30, 2023, to follow up on the request for relief. On April 4, 2023, SSA responded that they are continuing to work with CMS to review the cases provided and will provide the state with more information as it becomes available. The Department will continue to reach out to SSA monthly.

The database is currently under development, and it is anticipated that it will be up and running by the end of the year.