



## Department of Health

**KATHY HOCHUL**  
Governor

**JAMES V. McDONALD, M.D., M.P.H.**  
Commissioner

**JOHANNE E. MORNE, M.S.**  
Acting Executive Deputy Commissioner

September 27, 2023

Andrea Inman  
Audit Director  
Division of State Government Accountability  
NYS Office of the State Comptroller  
110 State Street, 11th Floor  
Albany, New York 12236  
ainman@osc.ny.gov

Dear Ms. Inman:

Pursuant to the provisions of Section 170 of New York State Executive Law, I hereby transmit to you a copy of the New York State Department of Health's comments related to the Office of the State Comptroller's final audit report 2022-S-12 entitled, "Medicaid Program: Claims Processing Activity April 1, 2022 Through September 30, 2022."

Should you have questions or concerns, please contact Mischa Sogut, Assistant Commissioner for Governmental Affairs, at 518-473-1124 or [Mischa.sogut@health.ny.gov](mailto:Mischa.sogut@health.ny.gov).

Sincerely,

Johanne E. Morne, M.S.  
Acting Executive Deputy Commissioner

Enclosure

cc: Mischa Sogut

**Department of Health Comments to  
Final Audit Report 2022-S-12 entitled, “Medicaid Program: Claims  
Processing Activity April 1, 2022 Through September 30, 2022” by the  
Office of the State Comptroller**

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The following are the responses from the New York State Department of Health (the Department) to Final Audit Report 2022-S-12 entitled, “Medicaid Program: Claims Processing Activity April 1, 2022 Through September 30, 2022” by the Office of the State Comptroller (OSC).

**Recommendation #1:**

Review the nearly \$10.2 million in overpayments, make recoveries, and disenroll the members from managed care, as appropriate.

**Response #1:**

The Office of the Medicaid Inspector General (OMIG) continuously performs audits of Medicaid payments on behalf of recipients with Third-Party Health Insurance (TPHI) and makes appropriate recoveries of identified overpayments. OMIG will perform its own extraction of data from the Medicaid Data Warehouse (MDW) 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.

The Department will continue to send the monthly TPHI report to Maximus and continue to send the disenrollment list to the districts to review for possible retro-disenrollments.

**Recommendation #2:**

Review the \$3,235 overpayment and recover, as appropriate.

**Response #2:**

OMIG continuously performs audits of other insurance claims, to ensure Medicaid is the payor of last resort, and makes appropriate recoveries of identified overpayments. OMIG will perform its own extraction of data from the MDW 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. Providers are authorized by regulation to adjust or void any claims or encounters up to two years after submission to NYS Medicaid. OMIG takes this into account when determining the start of the audit process. Pursuant to State regulations, any identified overpayments OMIG pursues for recovery are subject to the provider’s right to due process. From previously identified OSC overpayments, OMIG has recovered more than \$700,000 for the scope period of 2018 through 2021, related to audits in this area.

**Recommendation #3:**

Review the nearly \$1.2 million in overpayments and make recoveries, as appropriate.

**Response #3:**

OMIG is performing analysis on the OSC-identified inpatient claims. OMIG will perform its own extraction of data from the MDW 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. Providers are authorized by regulation to adjust or void any claims or encounters up to two years after submission to NYS Medicaid. OMIG takes this into account when determining the start of the audit process. Pursuant to State regulations, any identified overpayments OMIG pursues for recovery are subject to the provider's right to due process.

**Recommendation #4:**

Review the \$755,585 in overpayments and make recoveries, as appropriate.

**Response #4:**

OMIG continuously performs audits of alternate level of care claims and makes appropriate recoveries of identified overpayments. OMIG will perform its own extraction of data from the MDW 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. Providers are authorized by regulation to adjust or void any claims or encounters up to two years after submission to NYS Medicaid. OMIG takes this into account when determining the start of the audit process. Pursuant to State regulations, any identified overpayments OMIG pursues for recovery are subject to the provider's right to due process. From previously identified OSC overpayments, OMIG has recovered more than \$870,000 for the scope period of 2018 through 2021, related to audits in this area.

**Recommendation #5:**

Directly advise the providers identified in this report to bill claims at the appropriate level of care.

**Response #5:**

The Department published a Medicaid Update reminder in June 2022, titled "*Attention Inpatient Hospital Providers Billing for Alternate Level of Care Status*", which addresses the OSC recommendation. This article can be found in Volume 38 - Number 7:

[https://www.health.ny.gov/health\\_care/medicaid/program/update/2022/no07\\_2022-06.htm#alc](https://www.health.ny.gov/health_care/medicaid/program/update/2022/no07_2022-06.htm#alc)

In addition, the Department directly advised the hospitals identified by OSC in this audit to accurately report alternate levels of patient care when billing Medicaid.

**Recommendation #6:**

Review the \$311,508 (\$229,424 + \$66,773 + \$9,257 + \$6,054) in overpayments and make recoveries, as appropriate.

**Response #6:**

OMIG continuously performs audits of practitioner, clinic, and pharmacy claims and makes appropriate recoveries of identified overpayments. OMIG will perform its own extraction of data from the MDW 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. Providers are authorized by regulation to adjust or void any claims or encounters up to two years after submission to NYS Medicaid. OMIG takes this into account when determining the start of the audit process. Pursuant to State regulations, any identified overpayments OMIG pursues for recovery are subject to the provider's right to due process. From previously identified OSC overpayments, OMIG has recovered more than \$500,000 for the scope period of 2018 through 2021, related to audits in this area.

**Recommendation #7:**

Formally advise the MCOs and the hospital to accurately report maternity and newborn claim information when billing Medicaid to ensure appropriate payment.

**Response #7:**

The Department published a Medicaid Update article in the February 2023 Issue, titled "*Billing Guidance for Reporting Newborn Birth Weights*", advising hospitals to accurately report maternity and newborn claim information when billing Medicaid to ensure appropriate payment. This article can be found in Volume 39 – Number 5:

[https://www.health.ny.gov/health\\_care/medicaid/program/update/2023/no05\\_2023-02.htm#newborn](https://www.health.ny.gov/health_care/medicaid/program/update/2023/no05_2023-02.htm#newborn)

The Department will formally advise the MCOs to accurately report maternity and newborn claim information when billing Medicaid to ensure appropriate payment.

**Recommendation #8:**

Ensure providers who violate Medicaid or other health insurance program provisions are subject to appropriate and timely sanctions, including removal from the Medicaid program.

**Response #8:**

OMIG sanctions individuals based on findings of unacceptable practices discovered during investigations or audits of providers, as well as taking derivative actions that originate from other agencies including Office of Professional Discipline, Office of Professional Medical Conduct, US Health and Human Services - Office of Inspector General, and NYS Attorney General's Medicaid Fraud Control Unit. OMIG also performs searches of the internet to identify providers that have been arrested or convicted of health care related crimes, determines if they are participating in the Medicaid program and appropriately sanctions them. OMIG excludes

providers from the Medicaid program under the provisions of 18 NYCRR § 515.3 (Sanctions for Unacceptable Practices), 18 NYCRR § 515.7 (Immediate Sanctions), and/or 18 NYCRR § 515.8 (Mandatory Exclusions). OMIG maintains an exclusion list that is updated on the OMIG website, which contains both enrolled providers and non-enrolled persons/entities.