



Department of Health

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Acting Executive Deputy Commissioner

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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, 2023-F-3 entitled, "Improper Supplemental Maternity Capitation Payments to Managed Care Organizations."

Thank you for the opportunity to comment.

Sincerely,

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

Enclosure

cc: Amir Bassiri
Jacqueline McGovern
Andrea Martin
James Dematteo
James Cataldo
Amber Rohan
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Timothy Brown
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Department of Health Comments to Follow-Up Audit Report 2023-F-3 entitled, “Improper Supplemental Maternity Capitation Payments to Managed Care Organizations” (Report 2020-S-57) 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 2023-F-3 entitled, “Improper Supplemental Maternity Capitation Payments to Managed Care Organizations” by the Office of the State Comptroller (OSC).

General Comments:

The following comments address specific statements made in the audit report.

Summary Conclusions and Status of Audit Recommendations (page 2)

Department officials made some progress in addressing the problems we identified in the initial audit report, but additional actions are still required. For example, a significant portion of the questionable claims we identified have not been reviewed...

Office of the Medicaid Inspector General (OMIG) Response and Analysis:

OMIG received the original audit findings from OSC in the amount of \$56,852,618 and performed a claim-by-claim review of supporting encounter data and member information for relevant Medicaid recipients which resulted in the removal of almost half of the claims included in OSC’s Final Audit Report 2020-S-57, as shown in the chart on the next page.

State Comptroller’s Comment – At the conclusion of our initial audit, we provided the Department and OMIG with an updated file of claims supporting the audit’s nearly \$55 million in findings (over \$26 million in improper payments and over \$28 million in questionable payments). The analysis referenced in this 30-day response does not accurately reflect the updated findings, and OMIG should reconcile its conclusions with this file to ensure an accurate and complete review is performed.

The following list provides examples of why some OSC-identified overpayments were considered to be “paid appropriate” upon further review by OMIG auditors:

- Encounter evidence supporting a live birth.
- Encounter evidence demonstrating greater than 20 weeks gestation.
- Encounter evidence of an uncomplicated delivery.
- Encounter evidence of a live birth and member data indicating a baby associated with the mother.
- Evidence on member data of baby with appropriate date of birth.
- Corresponding inpatient claim or encounter was found to support the SMCP.

CATEGORY DESCRIPTION	OSC DOLLARS	OMIG REVIEWED	CLAIMS PAID APPROPRIATELY
SMCPs 1 to 6 Months Before a Live Birth, as Indicated on a Corresponding GME and Encounter	\$2,410,091.47*		\$2,410,091.47
SMCPs that had two corresponding encounters: one with a termination-only diagnosis and one with a termination and live/still birth diagnosis	\$277,536.07	\$277,536.07	\$27,167.97
SMCPs where the corresponding GME claim had a diagnosis indicating the maternity case ended in a termination (21 duplicate claims removed)	\$2,774,363.90	\$2,567,925.54	\$471,691.82
SMCPs where the corresponding GME claim had a diagnosis indicating the maternity case ended in both a termination and a live/still birth	\$2,890,865.01	\$2,890,865.01	\$1,099,755.32
SMCPs where the corresponding MCO encounter claim had a diagnosis indicating the maternity case ended in a termination	\$4,063,091.93	\$4,063,091.93	\$1,983,769.62
SMCPs where the corresponding MCO encounter claim had a diagnosis indicating the maternity case ended in both a termination and a live/still birth	\$627,869.47	\$627,869.47	\$295,281.95
SMCPs with a corresponding encounter claim that did not indicate a termination or miscarriage, but did indicate <20 weeks gestation	\$9,938,106.64	\$9,938,106.64	\$8,942,701.06
SMCPs with a corresponding GME that did not indicate a termination or miscarriage, but did indicate <20 weeks gestation	\$4,758,617.99	\$4,758,617.99	\$2,511,118.32
SMCPs Without Corresponding Encounters Within 31 Days of SMCP (103 voided claims removed)	\$29,112,076.00	\$28,209,020.45	\$10,727,398.71
Totals	\$56,852,618.48	\$53,333,033.10	\$28,468,976.24
103 voided claims removed		\$903,055.42	
21 duplicate claims removed		\$206,438.36	
*SMCPs 1 to 6 Months Before a Live Birth, as Indicated on a Corresponding GME and Encounter-NOT REVIEWED		\$2,410,091.47	
Totals	\$56,852,618.48	\$56,852,618.35	\$28,468,976.24

Audit Recommendation Responses:

Recommendation #1:

Review the \$205,323 in unadjusted SMCPs where the MCOs agreed they were not entitled to the payments and make recoveries as appropriate.

Status – Partially Implemented

Agency Action – OMIG investigates and recovers improper Medicaid payments on behalf of the Department. At the time of our follow-up, 18 of the 21 (86%) unadjusted claims included in the initial audit had been voided or recovered. The remaining three claims totaling \$28,761 still needed to be resolved.

Response #1:

OMIG has recovered more than \$175,000 of the OSC-identified overpayments. OMIG performs audits of SMCPs on an ongoing basis. This project historically looked to identify instances where there was not encounter data supporting the kick payment or SMCP. It did not specifically look for kick payments associated with terminations, miscarriages, or gestation less than twenty weeks. OMIG is reviewing these areas for potential inclusion in future audits. 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:

Review the \$52,447,910 in SMCPs to MCOs that did not meet the criteria outlined in the Contract– beginning with the high-risk subpopulations discussed in this report – and determine an appropriate course of action, including making recoveries as well as requiring MCOs to submit missing encounter claims and reversing any unsupported SMCPs.

Status – Partially Implemented

Agency Action – Almost \$10 million in claims have been voided by MCOs or recovered by OMIG. However, we note that OMIG may have already lost the opportunity to recover almost \$24.8 million in claims we identified due to federal look-back provisions. We encourage the Department and OMIG to take prompt action on the remaining payments we identified to prevent further loss of recoveries.

Response #2:

OMIG has recovered more than \$10 million of the OSC-identified payments. OMIG performs audits of SMCPs on an ongoing basis. Based on the information in the chart displayed in the General Comment section, OMIG performed its own data analysis and will pursue any remaining identified inappropriate payments for recovery. Pursuant to State regulations, any identified overpayments OMIG pursues for recovery are subject to the provider's right to due process.

Recommendation #3:

Formally remind the MCOs of the SMCP Contract criteria for payment.

Status – Not Implemented

Agency Action – Department officials stated that they are working to develop guidance to remind MCOs of the Medicaid Managed Care Model Contract (Contract) criteria for SMCPs. However, the guidance is still a work in progress and has not been issued to the MCOs. We encourage the Department to prioritize the development and issuance of this guidance to ensure MCOs are aware of SMCP Contract requirements.

Response #3:

The Department is developing guidance to remind MCOs of the SMCP contract criteria for payment.

Recommendation #4:

Ensure the 10 MCOs identified in this audit take corrective steps to resolve the identified problems in their claims processing systems pertaining to improper SMCP claims.

Status – Not Implemented

Agency Action – Our initial audit found that issues with MCO's claims processing systems led to improper SMCPs, such as when MCO encounters contained conflicting diagnoses (e.g., termination or miscarriage as well as live birth or stillbirth), or when the SMCP claim was submitted prior to the date of the live birth on the corresponding encounter.

Department officials indicated that they were still working to determine the best method to contact the 10 MCOs and officials were unable to provide documentation to support that any action had been taken. We encourage the Department to work with the MCOs to ensure system problems are promptly corrected to prevent additional improper SMCP payments.

Response #4:

The Department, in collaboration with OMIG, will issue a Medicaid Update to remind the Plans to review their claims processing systems to identify issues or inaccuracies with SMCP claims.

Recommendation #5:

Routinely monitor the accuracy of SMCP claims and take formal corrective actions with non-compliant MCOs including, but not limited to, those that:

- *Do not submit encounter data as evidence of maternity care and delivery services before billing for SMCPs; and*
- *Submit claims for SMCPs that have conflicting supporting encounter information (such as conflicting dates of birth and encounter data that indicates maternity cases ended in termination or miscarriage).*

Status – Not Implemented

Agency Action – As stated in the Agency Action section of Recommendation 4, our initial audit found certain improper SMCPs occurred because of issues with MCO claims processing systems. The Department relies on OMIG to audit SMCP claims and to recover improper payments where applicable. However, OMIG does not monitor the MCOs to ensure actions are taken to correct the issues that led to the improper payments. The Department has not taken any action to develop routine monitoring of SMCP claims and therefore has not taken formal corrective actions with non-compliant MCOs.

Response #5:

The Department, in collaboration with OMIG, will issue a Medicaid Update to remind the Plans to review their claims processing systems to identify issues or inaccuracies with SMCP claims.

Recommendation #6:

Ensure OMIG updates its audit processes to identifying improper SMCPs. Updates should include, but not be limited to:

- *Performing audits more timely;*
- *Using all applicable diagnosis codes; and*
- *Examining the higher-risk categories identified in our audit, including:*
 - *When the corresponding GME or encounter claim indicates termination or miscarriage and a gestation period of less than 20 weeks;*
 - *When the corresponding GME or encounter claim indicates a gestation period of less than 20 weeks and there is no CIN within the mother's Medicaid case that has a date of birth within 31 days of the SMCP service date; and*
 - *When there is no corresponding encounter claim of a live birth or stillbirth that occurred within 31 days of the SMCP service date and there is no CIN within the mother's Medicaid case that has a date of birth within 31 days of the SMCP service date.*

Status – Partially Implemented

Agency Action – Our initial audit found OMIG's audits of SMCPs were not done timely, and the last completed audit was not sufficient to capture all improper SMCPs. For example, at the time of our initial audit fieldwork testing in 2021, OMIG's last SMCP audit covered a period that ended December 31, 2016. In addition, the diagnosis codes OMIG used to determine the actual outcome of maternity cases did not contain all relevant codes; therefore, the audit was less effective in identifying all improper payments.

OMIG has improved its audit timeliness. As of May 23, 2023, the most recent SMCP audits completed included audit scopes that ended July 31, 2020. OMIG is also in the process of

enhancing its SMCP audit process to include additional high-risk areas (and diagnosis codes) that can result in identification of additional improper SMCP payments, such as cases that end in termination or miscarriage. Although the changes have not yet been implemented, OMIG officials provided an updated audit plan for future SMCP audit cycles that includes these changes.

Response #6:

OMIG performs audits of SMCPs on an ongoing basis. OMIG's experience in this area has found that claim type codes and service dates in encounter data can be unreliable and that a more comprehensive review, including additional claim type codes, service codes, diagnostic codes, DRG codes, procedure codes, and other factors, is a more effective way to identify inappropriate SMCPs. While ideally the encounter record would be accurate, OMIG would point out that the purpose of this review is not to evaluate the correctness of encounter data, but instead the appropriateness of SMCPs. OMIG has found it more effective to look at the preponderance of evidence within the encounter data to make such determinations regarding SMCPs.

OMIG already includes encounters with an inpatient or clinic claim type code and examines the encounter to determine if the diagnostic codes, procedure codes, or DRGs indicate a birth as part of its reviews of SMCPs. OMIG also looks for encounters with a category of service for a physician/midwife that contain one of the DRG, diagnostic, or procedure codes that indicates a birth, and where there is also an inpatient or clinic claim occurring within five days of the physician or midwife claim. OMIG also reviews fee-for-service claims to identify instances where a kick payment or SMCP may be inappropriate.

OMIG is reviewing the areas outlined by OSC for potential inclusion in future audits. To allow providers the authorized time to adjust or void any claims or encounters, OMIG begins its audit period two years after the last date of service.