



Department of Health

KATHY HOCHUL
Governor

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

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

May 6, 2024

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 Andrea 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-36 entitled, "Medicaid Program: Claims Processing Activity October 1, 2022 Through March 31, 2023."

Should you have any questions, please feel free to contact Mischa Sogut, Assistant Commissioner for Governmental Affairs at (518) 473-1124 or Mischa.sogut@health.ny.gov.

Sincerely,

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

Enclosure

cc: Mischa Sogut

Department of Health Comments to Final Audit Report 2022-S-36 entitled, “Medicaid Program: Claims Processing Activity October 1, 2022 Through March 31, 2023” by the Office of the State Comptroller

The following are the Department of Health’s (Department) comments in response to the Office of the State Comptroller’s (OSC) Final Audit Report 2022-S-36 entitled, “Medicaid Program: Claims Processing Activity October 1, 2022 Through March 31, 2023”. Included in the Department’s response are the Office of the Medicaid Inspector General’s (OMIG) replies to applicable recommendations. OMIG conducts and coordinates the investigation, detection, audit, and review of Medicaid providers and recipients to ensure they are complying with the laws and regulations.

General Comment

The audit concluded on the top of page 7 that “eMedNY reasonably ensured Medicaid claims were submitted by approved providers, were processed in accordance with requirements, and resulted in correct payments to providers.”

Recommendation #1:

Review the over \$12.2 million in overpayments, make recoveries, and disenroll the members from managed care, as appropriate.

Response #1:

OMIG continuously performs audits of Medicaid payments on behalf of recipients with third-party health insurance. 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, confirm the accuracy of the claims detail for use in OMIG audit activities, and to determine those overpayments requiring recovery. Providers are authorized by regulation to adjust or void any claims or encounters up to two years after submission to New York State 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 #2:

Remind the providers of their obligation to bill all applicable third parties that may be liable for a claim before billing Medicaid.

Response #2:

The Department published a Medicaid Update article in July 2023 titled, “*Reminder to Provider: New York State Medicaid Requires Coordination of Benefits*”, which addresses the OSC recommendation. The article can be found in Volume 39-Number 12:
https://www.health.ny.gov/health_care/medicaid/program/update/2023/no12_2023-07.htm#benefits.

Recommendation #3:

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

Response #3:

The Department published a Medicaid Update article in the June 2023 issue titled, “*Billing Guidance for Reporting Newborn Birth Weights*”, which addresses the OSC recommendation. The article can be found in Volume 39-Number 11:
https://www.health.ny.gov/health_care/medicaid/program/update/2023/no11_2023-06.htm#newborn.

The Department sent out a blast email on October 5, 2023 to all MCOs to remind them to accurately report newborn and maternity claim information when billing Medicaid to ensure appropriate payment.

Recommendation #4:

Review the \$878,653 (\$732,818 + \$142,045 + \$3,790) in overpayments and make recoveries, as appropriate.

Response #4:

OMIG has routinely performed audits of practitioner, clinic, and pharmacy 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, confirm the accuracy of the claims detail for use in OMIG audit activities, and to determine those overpayments requiring recovery. Providers are authorized by regulation to adjust or void any claims or encounters up to two years after submission to New York State 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. OMIG has recovered more than \$485,000 in overpayments made in 2019 through 2022 that were identified as potential overpayments by OSC in similar prior claims processing activity audits.

Recommendation #5:

Review the \$108,154 in overpayments and make recoveries, as appropriate.

Response #5:

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, confirm the accuracy of the claims detail for use in OMIG audit activities, and to determine those overpayments requiring recovery. Providers are authorized by regulation to adjust or void any claims or encounters up to two years after submission to New York State 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. OMIG has recovered more than \$43,000 in overpayments made in 2019 through 2022 that were identified as potential overpayments by OSC in similar prior claims processing activity audits.

Recommendation #6:

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 #6:

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 The Office of Professional Discipline, Office of Professional Medical Conduct, US Health and Human Services - Office of Inspector General, and New York State 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.