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May 8, 2024

James V. McDonald, M.D., M.P.H.
Commissioner
Department of Health
Corning Tower
Empire State Plaza
Albany, NY 12237

Re: Excessive Premium Payments for
Dual-Eligible Recipients Enrolled in
Mainstream Managed Care and
Health and Recovery Plans
Report 2023-F-39

Dear Dr. McDonald:

Pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law, we have followed up on the actions taken by officials of the Department of Health (DOH) to implement the recommendations contained in our initial audit report, *Excessive Premium Payments for Dual-Eligible Recipients Enrolled in Mainstream Managed Care and Health and Recovery Plans* (Report 2021-S-37).

Background, Scope, and Objective

DOH administers New York's Medicaid program. Many Medicaid recipients are enrolled in Medicare and are referred to as "dual-eligibles." Additionally, many Medicaid recipients receive their services through managed care, including Mainstream Managed Care (MMC), which provides comprehensive coverage, and Health and Recovery Plans (HARP), which provide specialized care to recipients age 21 or older with serious mental illness and/or substance use disorders.

Within MMC and HARP is the Integrated Benefits for Dually Eligible Enrollees Program (IB-Dual), which became effective April 1, 2021. IB-Dual pays lower MMC and HARP premium rates for Medicaid recipients in MMC or HARP who enroll in Medicare and do not need long-term services and support. However, recipients in MMC or HARP who enroll in Medicare but are not eligible for IB-Dual should be disenrolled from MMC and HARP and moved to Medicaid fee-for-service (FFS) because the cost of the managed care premiums generally exceeds the cost of deductibles and coinsurance that Medicaid would pay on FFS claims for dual-eligibles.

In response to the COVID-19 state of emergency, the federal government passed the Families First Coronavirus Response Act, which, in part, increased the federal medical assistance percentage to state Medicaid programs. In order to receive the increase, states were required to maintain managed care coverage for enrolled recipients throughout the public health emergency. In response, DOH paused disenrollment of dual-eligible recipients from MMC and

HARP. However, in November 2020, the federal regulation was updated and allowed states to change a recipient's eligibility group as long as minimum essential coverage (e.g., Medicaid FFS) was maintained.

The objective of our initial audit, issued on October 31, 2022, was to determine whether Medicaid overpaid MMC and HARP premiums on behalf of dual-eligible individuals. The audit covered the period from March 2021 through March 2022. The audit found over $190.6 million was paid on behalf of dual-eligible recipients who were ineligible for IB-Dual. These recipients should have been removed from their MMC or HARP plan and provided FFS coverage. The excessive premium payments occurred because DOH chose not to restart disenrollment of dual-eligibles from managed care as allowed by federal regulations. Additionally, the audit found over $3.5 million was paid on behalf of dual-eligible recipients who appeared eligible for IB-Dual but were not enrolled in a timely manner. We found DOH's rollout of IB-Dual did not initially include recipients who became dual-eligible prior to the date the new IB-Dual rate became effective.

The objective of our follow-up was to assess the extent of implementation, as of March 7, 2024, of the four recommendations included in our initial audit report.

Summary Conclusions and Status of Audit Recommendations

DOH officials made significant progress in addressing the problems we identified in the initial audit report. For example, DOH made adjustments to reduce MMC and HARP premiums to account for the presence of dual-eligibles enrolled in MMC and HARP plans. In addition, beginning in December 2023, DOH started disenrolling dual-eligible recipients from MMC and HARP as part of the COVID-19 public health emergency unwind process. Of the initial report's four audit recommendations, two were implemented and two were partially implemented.

Follow-Up Observations

Recommendation 1

Disenroll dual-eligible recipients from their MMC or HARP plan who are ineligible for IB-Dual and provide them with FFS coverage, as appropriate.

Status – Partially Implemented

Agency Action – In December 2023, DOH disenrolled over 13,000 dual-eligible recipients from their MMC or HARP plan. However, 68,054 dual-eligibles were still enrolled in MMC or HARP who were not eligible for IB-Dual enrollment. According to DOH officials, they will continue disenrolling dual-eligible recipients from MMC and HARP as part of the COVID-19 Public Health Emergency unwind process. We encourage DOH to continue disenrollment efforts until all dual-eligibles who are ineligible for IB-Dual are removed from their MMC and HARP plan.

Recommendation 2

Review the $190.6 million in excessive premium payments and make recoveries, as appropriate.

Status – Implemented

Agency Action – Our initial audit identified over $190.6 million in excessive MMC and HARP premium payments on behalf of 87,022 dual-eligible recipients who were ineligible for

IB-Dual. Our follow-up determined DOH made adjustments to reduce fiscal year 2021-22 and fiscal year 2022-23 MMC and HARP premiums through the managed care rate-setting process to account for the presence of such dual-eligibles in MMC and HARP plans.

Recommendation 3

Review the $3.5 million in excessive premium payments and make recoveries, as appropriate.

Status – Implemented

Agency Action – Our initial audit found DOH would have saved over $3.5 million had Medicaid paid the monthly IB-Dual premium rate (instead of the standard higher monthly MMC and HARP premiums) for 1,948 dual-eligible recipients who appeared eligible for IB-Dual but who were not enrolled. As stated in the Agency Action section of Recommendation 2, DOH made adjustments to reduce fiscal year 2021-22 and fiscal year 2022-23 MMC and HARP premiums through the managed care rate-setting process to account for the presence of dual eligibles in MMC and HARP plans.

Recommendation 4

Ensure that all dual-eligible recipients who meet IB-Dual enrollment requirements and who do not opt out are enrolled timely. For those recipients who opt out, disenroll them from their MMC or HARP plan and provide them with FFS coverage, as appropriate.

Status – Partially Implemented

Agency Action – Our initial audit determined that the majority (93%) of the $3.5 million in excessive premium payments were on behalf of recipients who did not go through the default enrollment process because they became a dual-eligible prior to the IB-Dual rollout in April 2021. Since that time, we found 88% of these recipients (1,131 of 1,288) were enrolled in an IB-Dual plan. Although some members may opt out of IB-Dual, as stated in the Agency Action section of Recommendation 1, DOH plans to disenroll dual-eligible recipients from MMC and HARP as part of the COVID-19 Public Health Emergency unwind process.

Major contributors to this report were Thomas Sunkel, Jonathan Brzozowski, and Jacob Stevens.

DOH officials are requested, but not required, to provide information about any actions planned to address the unresolved issues discussed in this follow-up within 30 days of the report's issuance. We thank the management and staff of DOH for the courtesies and cooperation extended to our auditors during this follow-up.

Sincerely,

Christopher Morris
Audit Manager

cc: Melissa Fiore, Department of Health
Frank T. Walsh, Jr., Office of the Medicaid Inspector General