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STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

June 4, 2025

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

Re: Improper Medicaid Payments During
Permissible Overlapping Medicaid and
Essential Plan Coverage
Report 2024-F-40

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 audit report, *Medicaid Program – Improper Medicaid Payments During Permissible Overlapping Medicaid and Essential Plan Coverage* (Report [2022-S-35](#)).

Background, Scope, and Objective

DOH administers the State's Medicaid program and the Essential Plan. Medicaid (funded by federal, state, and local governments) provides health care services to individuals who are economically disadvantaged. The Essential Plan (funded by the federal government) also provides health care coverage to lower-income individuals for those who, generally, don't otherwise qualify for Medicaid. As income, household makeup, and other factors change, individuals may transition between Medicaid and the Essential Plan. When members transition from one program into the other, Medicaid and Essential Plan eligibility and enrollment rules can result in DOH-authorized periods of overlapping coverage. During periods of authorized overlapping Medicaid and Essential Plan coverage, the Essential Plan should be the primary payer and Medicaid, as secondary payer, should pay any remaining liabilities, such as deductibles and coinsurance. DOH's eMedNY system processes Medicaid and Essential Plan enrollment information.

The objective of our initial audit, issued on September 14, 2023, was to determine whether Medicaid made improper payments on behalf of members with DOH-authorized overlapping Medicaid and Essential Plan coverage. The audit covered the period from January 2017 through November 2022. The audit found Medicaid improperly paid \$93.7 million in claims during periods of overlapping Medicaid and Essential Plan coverage because DOH did not account for the Essential Plan as a liable third-party health insurance (i.e., primary payer). This included Medicaid overpayments of approximately \$69 million for health care services

fully covered by the Essential Plan, up to \$14.1 million for health care services covered by the Essential Plan under certain circumstances and/or up to certain quantity limits, and \$10.6 million for managed care premiums paid on behalf of members who did not qualify for Medicaid managed care because they also had Essential Plan coverage.

The objective of our follow-up was to assess the extent of implementation, as of April 7, 2025, of the two recommendations included in our initial audit report.

Summary Conclusions and Status of Audit Recommendations

DOH officials made some progress in addressing the problems we identified in the initial audit report. For example, DOH officials deployed a new process in eMedNY to recognize certain Essential Plan coverage as liable third-party health insurance. However, officials have made minimal progress in recovering the improper payments identified by the initial audit, which has caused a significant portion of the payments to become unrecoverable due to lookback limitations. Of the initial report's two audit recommendations, one was partially implemented and one was not implemented.

Follow-Up Observations

Recommendation 1

Review the \$93.7 million (\$83.1 million + \$10.6 million) in improper payments and make recoveries as appropriate.

Status – Not Implemented

Agency Action – The initial audit found DOH improperly paid \$93.7 million in claims during periods of overlapping Medicaid and Essential Plan coverage because DOH did not account for the Essential Plan as a liable third-party health insurance (i.e., primary payer). On behalf of DOH, the Office of the Medicaid Inspector General (OMIG) investigates and recovers improper Medicaid payments. OMIG recovered nearly \$2 million (2%) of the initial audit's findings. However, the recoveries were unrelated to the issues identified in the initial audit. We determined an additional \$36.6 million (39%) of the initial audit findings is no longer recoverable due to audit lookback regulations, and the remaining \$55.1 million had not been reviewed or recovered. OMIG needs to promptly take steps to recover the remaining improper payments before any more overpayments become unrecoverable due to lookback limitations.

Recommendation 2

Recognize the Essential Plan as liable third-party health insurance and ensure proper processing of Medicaid claim payments.

Status – Partially Implemented

Agency Action – The initial audit found DOH never applied payment controls to treat the Essential Plan as third-party health insurance that would pay for services as a primary payer, despite administering both Medicaid and the Essential Plan and having enrollment information for both programs in its systems. Consequently, Medicaid had been improperly paying for services as the primary payer during periods of authorized overlapping Medicaid and Essential Plan coverage since the inception of the Essential Plan in 2016.

In response to our initial audit, DOH officials deployed a new process in eMedNY in September 2024 to recognize Essential Plan coverage as liable third-party health insurance. However, this process only applies to Essential Plan coverage that has been terminated and not to currently active Essential Plan coverage. As a result, Essential Plan coverage may not be recognized as liable third-party health insurance in certain scenarios, such as when a member's Medicaid coverage is limited and available only under certain circumstances (i.e., it does not qualify as "minimum essential coverage"). In these scenarios, members can be enrolled in both Medicaid and the Essential Plan for extended time periods without the Essential Plan coverage needing to be terminated. We also note that the new process was still undergoing post-implementation validation.

To assess the effectiveness of the new eMedNY process, we identified 19,997 members with Essential Plan coverage terminated in December 2024 who also had overlapping Medicaid coverage. We found the Essential Plan coverage was not added to eMedNY as third-party health insurance for 5,953 (or 30%) of the members. DOH officials reviewed these findings and confirmed eMedNY did not correctly recognize all instances where the Essential Plan was a liable third-party health insurance, and stated they will look into ways to improve the process.

Major contributors to this report were Wendy Matson, Amanda Basle, and Jennifer Kirby.

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,

Mark Breunig
Audit Manager

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