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OFFICE OF THE STATE COMPTROLLER

February 26, 2026

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

Re: Recovering Managed Care  
Payments for Inpatient Services on  
Behalf of Recipients With Third-Party  
Health Insurance  
Report 2025-F-10

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, or Department) to implement the recommendations contained in our initial audit report, *Medicaid Program – Recovering Managed Care Payments for Inpatient Services on Behalf of Recipients With Third-Party Health Insurance* (Report [2021-S-24](#)).

**Background, Scope, and Objective**

DOH administers New York's Medicaid program. Many of the State's Medicaid recipients receive their services through managed care, where DOH pays managed care organizations (MCOs) a monthly premium for each enrolled Medicaid recipient and, in turn, the MCOs are required to pay for the services their recipients require, including inpatient services. Medicaid is the payer of last resort, and when Medicaid recipients have other third-party health insurance (TPHI) in addition to Medicaid (e.g., Medicare Part A hospital insurance, commercial health insurance), Medicaid providers and MCOs are required to coordinate benefits with the recipient's TPHI for payment prior to billing Medicaid. DOH uses post-payment reviews to identify instances where a TPHI carrier may be responsible for payments for services originally paid by Medicaid. The Office of the Medicaid Inspector General (OMIG) contracted with Health Management Systems, Inc. (a Gainwell Technologies company [Gainwell]) to perform these reviews and pursue recoveries from TPHI carriers or providers.

The objective of our initial audit, issued on September 27, 2023, was to determine whether Medicaid overpayments for inpatient services on behalf of managed care recipients who had TPHI were appropriately recovered. The audit covered the period from January 2017 through August 2021. The audit determined that DOH and OMIG lacked adequate oversight of the third-party liability recovery process. Gainwell had not billed TPHI carriers for the recovery

of about \$52.2 million in inpatient encounter claims that Medicaid MCOs paid as the primary insurance for recipients who, according to eMedNY (DOH's Medicaid claims processing and payment system), had TPHI inpatient coverage. Additionally, Gainwell's recovery files contained \$39.3 million in inpatient claims that were in an unresolved status due to TPHI carrier or provider non-response, as well as an additional \$2.1 million in claims that were denied by TPHI carriers for reasons that could potentially be rectified. Neither DOH nor OMIG performed reviews, reconciliations, or other monitoring of Gainwell's recovery efforts by comparing claims MCOs paid on behalf of recipients with TPHI inpatient coverage with the claims Gainwell recovered.

The objective of our follow-up was to assess the extent of implementation, as of November 10, 2025, of the eight recommendations included in our initial audit report.

### **Summary Conclusions and Status of Audit Recommendations**

DOH and OMIG officials made minimal progress addressing the problems we identified in the initial audit report, and additional actions are still needed. Specifically, officials had not reviewed or recovered most of the inpatient encounter payments made on behalf of recipients with TPHI identified in the initial report. As a result, DOH and OMIG likely missed an opportunity to recover a significant portion of the payments we identified because they have exceeded either Medicare's 12-month or New York State's 3-year statute of limitations. In addition, no action was taken to ensure MCOs are aware of recipients' TPHI with inpatient coverage per eMedNY, or to ensure MCOs no longer inappropriately exclude inpatient encounter claims from coordination of benefits or third-party liability recovery efforts. Of the initial report's eight audit recommendations, two were implemented, two were partially implemented, and four were not implemented.

### **Follow-Up Observations**

#### **Recommendation 1**

*Review the \$52.2 million in Medicaid payments for inpatient services on behalf of recipients with TPHI inpatient coverage and ensure TPHI carriers are billed and provider reviews are initiated, as appropriate, so overpayments are recovered, prioritizing encounter claims that are approaching the end of the recovery window.*

Status – Not Implemented

Agency Action – Our initial audit found that Gainwell did not bill TPHI carriers or initiate provider reviews for the recovery of \$52.2 million in inpatient encounter claims, despite recipients, according to eMedNY, having TPHI inpatient coverage that should have paid for the services. At the time of our follow-up, OMIG and Gainwell had initiated recovery actions on only \$1.3 million of the \$52.2 million in encounter claims we identified during the initial audit and had recovered \$183,303 of the original payments. They took no action on the remaining \$50.9 million (97.6% of the \$52.2 million). We note that Medicaid providers voided claims totaling \$1.4 million (of the \$50.9 million); however, OMIG was unable to provide evidence that the voided claims resulted from Gainwell's recovery activities.

Under State and federal laws, Gainwell, as the State's third-party liability contractor, must initiate the process of recovering payments by billing the TPHI carriers within 3 years of the claim date of service. Once the TPHI carrier is billed, Gainwell has up to 6 years from the submission of the claim to enforce its right to recover any amount for which the TPHI carrier is liable. In addition, Medicare will not accept a demand for a

claim recovery directly from a State Medicaid program, so Gainwell instructs providers to bill Medicare Part A, and after Medicare pays a claim, providers return the Medicaid payment to the State. However, the Centers for Medicare & Medicaid Services generally requires providers to submit Medicare claims within 12 months, although this time frame could be extended in instances of retroactive Medicare. Because the claims we identified were initially excluded from the recovery process, and the State and federal statute of limitations likely have passed, OMIG may have now lost the opportunity to enforce recovery of the encounters we identified.

### **Recommendation 2**

*Assess the recoverability of the \$41.4 million (\$39.3 million + \$2.1 million) in Medicaid payments for inpatient services that were billed to TPHI carriers or were part of provider reviews that did not result in a recovery (due to carrier/provider non-response or carrier denials), and ensure all necessary follow-up actions are taken to obtain appropriate recoveries, prioritizing claims that are approaching the end of the recovery window.*

Status – Partially Implemented

Agency Action – The initial audit identified \$41.4 million in encounter claims for inpatient services that were billed to TPHI carriers or were part of provider reviews that did not result in a recovery. Auditors found that, with thorough follow-up, these payments could have been recovered.

At the time of our follow-up, Gainwell took action on \$6.8 million in claims and recovered \$6.3 million. Gainwell determined that another \$12.1 million could not be recovered. Gainwell took no action on the remaining \$22.5 million. We note that, of that amount, Medicaid providers voided \$5.5 million; however, OMIG was unable to provide evidence that the voided claims resulted from Gainwell's recovery activities. We urge OMIG to expedite a review of encounter claims that remain eligible for recovery under federal and State time limits.

### **Recommendation 3**

*Assess the third-party liability recovery process for managed care inpatient services to identify all factors that led to exclusions from TPHI carrier billings and provider reviews, and ensure corrective actions are taken where appropriate.*

Status – Not Implemented

Agency Action – The initial audit found that DOH and OMIG did not provide adequate oversight of Gainwell's third-party liability recovery processes, including the review of edits and business rules that may have improperly excluded inpatient claims from recovery efforts. Additionally, Gainwell wasn't always able to identify or confirm recipients' Medicare coverage, resulting in missed opportunities to recover significant overpayments. In response to our initial audit, OMIG agreed that the third-party liability recovery process, including Gainwell's edits and business rules, should be regularly reviewed.

As a result of the initial audit, Gainwell performed a review of edits; however, no changes to inpatient encounter edits or exclusions were identified or implemented. In addition, OMIG was unable to provide any evidence that it assessed Gainwell's recovery process in depth to identify all factors that led to the exclusions from carrier billings and

provider reviews we identified, or that it took any actions to improve Gainwell's Medicare coverage identification process.

#### **Recommendation 4**

*Ensure MCOs are aware of recipients' TPHI with inpatient coverage per eMedNY and take corrective action where appropriate.*

Status – Not Implemented

Agency Action – The initial audit found that MCOs were not always aware that Medicaid recipients had TPHI, even when inpatient coverage was listed in eMedNY, which prevented them from coordinating benefits or recovering payments correctly. DOH has not taken action to ensure MCOs are aware of TPHI listed in eMedNY or to identify the reasons MCOs were not always aware of recipients' TPHI.

#### **Recommendation 5**

*Ensure MCOs are not inappropriately excluding inpatient encounter claims from coordination of benefits or third-party liability recovery efforts, and follow up with the MCO that inappropriately removed behavioral health inpatient services from its recovery efforts to ensure corrections were made.*

Status – Not Implemented

Agency Action – According to MCOs contacted in the initial audit, coordination of benefits did not generally occur, and recoveries were not sought because MCOs were not always aware of a recipient's TPHI at the time of service (even though the TPHI information was listed in eMedNY) and/or because TPHI was added to eMedNY more than 6 months after the MCOs paid the claim. Additionally, one MCO acknowledged that it had inappropriately excluded behavioral health inpatient encounters from its recovery efforts, thereby preventing third-party recoveries on such claims. The MCO planned to adjust its internal processes to include behavioral health claims in future post-payment reviews.

Although OMIG officials stated that Gainwell was analyzing behavioral health inpatient encounter claims at the time of our follow-up, officials were unable to provide any evidence to support their assertions. Furthermore, OMIG officials could not demonstrate that they had followed up with the MCO that inappropriately removed behavioral health inpatient services from its recovery efforts to ensure that proper actions had been taken to address the deficiency. Lastly, we found no evidence that actions were taken to ensure MCOs were no longer inappropriately excluding inpatient encounter claims from coordination of benefits or third-party recovery efforts.

#### **Recommendation 6**

*Reassess the exclusion of all claims with the 1,412 medical diagnosis codes of a confidential nature from third-party liability recovery efforts and identify solutions that would allow these claims to be recovered without the risk of disclosure.*

Status – Implemented

Agency Action – The initial audit determined claims were removed from the third-party liability recovery process because DOH and OMIG instructed Gainwell to remove all claims

containing a diagnosis code from a list of 1,412 medical diagnoses of a confidential nature, primarily HIV or pregnancy-related conditions. OMIG officials stated that this is a practice followed by state agencies nationwide to prevent inadvertent disclosure of confidential, sensitive medical conditions or procedures where disclosure of those conditions or procedures to guardians, spouses, or employers could potentially be harmful or dangerous.

At the time of our follow-up, DOH officials reaffirmed their position that OMIG or Gainwell should not pursue third-party recovery for claims with certain confidential diagnoses. In September 2024, DOH reviewed and updated the list of confidential diagnosis codes to include 5,513 codes. Of the original 1,412 codes, 1,406 remained on the list, 4,107 new codes were added, and six codes were removed. DOH officials noted that the increase in diagnosis codes was due to the addition of new categories of diagnoses that have been identified as confidential since the initial audit was completed. The additional diagnosis codes included those for certain communicable diseases, alcohol and substance abuse services, and mental health disorders, among others.

### **Recommendation 7**

*Determine whether inpatient encounter claims excluded from third-party liability recovery efforts due to the COVID-19 public health emergency will be billed to carriers in order to maximize recoveries before the recovery window closes.*

Status – Implemented

Agency Action – The initial audit determined that inpatient encounter claims with specific medical diagnoses related to COVID-19 were excluded from the third-party liability recovery process in the early days of the public health emergency until June 23, 2021. DOH and OMIG instructed Gainwell to exclude such claims from recovery efforts. At the time of the initial audit, Gainwell officials stated that they could reverse edits that previously excluded claims related to COVID-19.

During the follow-up, OMIG provided us with a file of claims that Gainwell billed to TPHI carriers after July 2021. The file of claims showed that Gainwell has now attempted recoveries on claims with COVID-related diagnoses on services provided prior to June 2021.

### **Recommendation 8**

*Continue to implement and develop Department and OMIG processes to assist Gainwell with third-party liability recovery efforts to ensure appropriate recoveries are made for inpatient encounter claims where: providers are not responsive to Gainwell's provider reviews (particularly regarding claims that should be paid by original Medicare); TPHI carriers are not responsive to attempted billings; and TPHI carriers deny attempted billings for administrative reasons or other reasons that may be rectifiable.*

Status – Partially Implemented

Agency Action – The initial audit identified weaknesses in DOH and OMIG's oversight of the third-party liability recovery process, which likely contributed to significant lost opportunities for recovering improper payments. In its response to the audit, OMIG officials stated they actively oversee Gainwell activities, have visibility into all

aspects of the third-party liability recovery process, and were implementing additional enhancements.

At the time of our follow-up, OMIG officials stated that they had begun issuing audit reports to providers that had not responded to Gainwell's recovery attempts. OMIG provided examples of audit reports issued in 2025, including the amounts providers must repay to the State.

OMIG officials stated they have worked with Gainwell to develop additional reporting to gain greater insight into the third-party liability recovery process: a monthly report of claims excluded from recovery attempts, along with the reasoning for the exclusion; and a quarterly report of claims for which a recovery attempt was made but the claim was subsequently denied by the TPHI carrier. However, these reports are high-level summaries and do not provide claim-level details that could provide further insight into the claim recovery process. Further, OMIG was unable to provide evidence of any corrective actions taken based on the information in the reports. Without demonstration of action taken or decisions made as a result of these reports, we have no assurance that DOH or OMIG made any improvements to address situations in which TPHI carriers are not responsive to attempted billings, or when TPHI carriers deny attempted billings for administrative reasons or other reasons that may be rectifiable.

Major contributors to this report were Kate Merrill, Emily Schwartz, and Daniel Wynn.

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 DOH management and staff 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