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OFFICE OF THE
NEW YORK STATE COMPTROLLER

DIVISION OF STATE
GOVERNMENT ACCOUNTABILITY

DEPARTMENT OF HEALTH

POTENTIAL OVERPAYMENTS OF MEDICAID PROVIDER CLAIMS FOR HUMAN IMMUNODEFICIENCY VIRUS PRIMARY CARE SERVICES

Report 2008-S-5

AUDIT OBJECTIVE

Our objective was to determine whether the Department of Health's eMedNY system accurately paid Medicaid claims for Human Immunodeficiency Virus primary care services.

AUDIT RESULTS - SUMMARY

We determined eMedNY lacked the controls necessary to detect and prevent inappropriate Medicaid claims for Human Immunodeficiency Virus primary care services. As a result, eMedNY potentially overpaid 174 Medicaid providers $2.4 million for these services during our three year audit period ended December 31, 2007.

This report, dated September 25, 2008, is available on our website at: http://www.osc.state.ny.us. Add or update your mailing list address by contacting us at: (518) 474-3271 or
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110 State Street, 11th Floor
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BACKGROUND

The Department of Health (Department) administers the State's Medicaid program. Medicaid provides medical assistance to recipients with Human Immunodeficiency Virus (HIV) and Acquired Immunodeficiency Syndrome (AIDS), a more advanced stage of the HIV disease. As of December 2005, the Department reported 112,308 known cases of HIV and AIDS in New York State. HIV is characterized by high replication, typically with billions of HIV particles produced daily.

The Department's HIV Primary Care Medicaid Program (HIV Program) helps ensure early diagnosis and access to care for persons with HIV infection. Three primary care services provided to recipients through the HIV Program include an annual evaluation, periodic testing and monitoring. Medicaid providers participating in the program must comply with Department rules and regulations which specify the type and frequency of each of these three services. The Department also establishes yearly limits for each type of HIV visit; and contracts with a peer review agent to identify inappropriate payments for claims exceeding the Department's frequency limits for one of the HIV primary care services, monitoring.

AUDIT FINDINGS AND RECOMMENDATIONS

Frequency Limits for HIV Primary Care Services

During our audit, we identified 9,406 HIV primary care services claims that exceeded yearly utilization limits. As a result, Medicaid potentially overpaid 174 providers a total of $2.4 million for these services. For example, one provider billed Medicaid for 12 HIV annual evaluations for one recipient in 2006, resulting in a potential overpayment of $6,880. Another provider billed Medicaid for 36 testing visits for one recipient in 2007, even though the Department's rules and regulations limit such visits to two per year per recipient. This billing resulted in a potential overpayment of $3,280. We determined these potential overpayments for HIV primary care services occurred because the eMedNY system lacks controls to detect claims that exceed the frequency limits set by the Department.

During our audit period, the Department contracted with the Island Peer Review Organization (IPRO) to identify Medicaid payments for HIV monitoring services that exceeded the Department's frequency limits.

IPRO's review was limited to Medicaid claims billed during 2005 for HIV primary care monitoring services. Our audit included Medicaid claims for all three HIV primary care services (annual evaluation, periodic testing and monitoring) billed during the three years ended December 31, 2007. As a result of its review, IPRO identified potential inappropriate payments for monitoring services totaling $214,904. According to IPRO officials, IPRO has not been able to process or recover these potential overpayments due to technical difficulties IPRO has experienced with eMedNY. As a result of our audit, IPRO and Department officials are now working to resolve these technical difficulties. We recognize that some of the potential overpayments we identified may also have been identified by IPRO; however, these potential overpayments remain uncorrected on eMedNY. Until eMedNY controls are developed to prevent billing for HIV primary care services that exceed the Department's frequency limits, the Department should continue efforts to resolve IPRO's technical difficulties with eMedNY.

Recommendations

1. Investigate and recover the $2.4 million overpayments we identified during our audit.

2. Develop eMedNY controls to prevent inappropriate Medicaid payments for HIV primary care services.

3. Continue efforts to resolve IPRO's technical difficulties with eMedNY.

AUDIT SCOPE AND METHODOLOGY

We conducted our audit according to generally accepted government auditing standards. We audited Medicaid claims submitted by hospital outpatient clinics and free standing clinics for the three year period ended December 31, 2007. To accomplish our audit objective, we met with Department officials, reviewed applicable federal and State laws and regulations, and examined the Department's relevant policies and procedures. We also analyzed paid claims for HIV primary care services from the Department's Medicaid payment files.

In addition to being the State Auditor, the Comptroller performs certain other constitutionally and statutorily mandated duties as the chief fiscal officer of New York State. These include operating the State's accounting system; preparing the State's financial statements; and approving State contracts, refunds, and other payments. In addition, the Comptroller appoints members to certain boards, commissions, and public authorities. These duties may be considered management functions for purposes of evaluating organizational independence under generally accepted government auditing standards. In our opinion, these management functions do not affect our ability to conduct independent audits of program performance.

AUTHORITY

The audit was performed 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.

REPORTING REQUIREMENTS

We provided a draft copy of this report to Department officials for their review and comment. Department officials generally agreed with our recommendations and indicated actions planned or taken to implement them. We considered their comments in preparing this report. A complete copy of the Department's response is included as Appendix A.

Within 90 days of the final release of this report, as required by Section 170 of the Executive Law, the Commissioner of the Department shall report to the Governor, the State Comptroller, and the leaders of the Legislature and fiscal committees, advising what steps were taken to implement the recommendations contained herein, and where recommendations were not implemented, the reasons therefor.

CONTRIBUTORS TO THE REPORT

Major contributors to the report include Steve Sossei, Sheila Emminger, Warren Fitzgerald, and Earl Vincent.

D|H STATE OF NEW YORK
DEPARTMENT OF HEALTH

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Richard F. Daines, M.D.
Commissioner

Wendy E. Saunders
Chief of Staff

August 28, 2008

Steven E. Sossei, Audit Director
Office of the State Comptroller
Division of State Services
State Audit Bureau
110 State Street, 11th Floor
Albany, New York 12236

Dear Mr. Sossei:

Enclosed are the Department of Health's comments on Office of the State Comptroller draft audit report 2008-S-05 on "Potential Overpayments of Medicaid Provider Claims for Immunodeficiency Virus Primary Care Services."

Thank you for the opportunity to comment.

Sincerely,

Wendy Sus

Wendy E. Saunders
Chief of Staff

Enclosure

cc: Stephen Abbott
      Deborah Bachrach
      Homer Charbonneau
      Humberto Cruz
      Ira Feldman
      Charles John Gonzalez
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Department of Health
Comments on
Office of the State Comptroller
Draft Audit Report 2008-S-05 on
"Potential Overpayments of Medicaid Provider Claims for Immunodeficiency Virus Primary Care Services"

The following are the Department of Health's (Department) comments in response to Office of the State Comptroller (OSC) draft audit report 2008-S-05 on "Potential Overpayments of Medicaid Provider Claims for Immunodeficiency Virus Primary Care Services."

Recommendation #1:

Investigate and recover the $2.4 million overpayments we identified during our audit.

Response #1:

The Office of the Medicaid Inspector General (OMIG) will review and investigate the audit findings and recover inappropriate payments as warranted.

Recommendation #2:

Develop eMedNY controls to prevent inappropriate Medicaid payments for HIV primary care services.

Response #2:

The Department will evaluate the feasibility of developing and implementing an eMedNY edit to deny claims whenever a provider bills for more than one initial/annual visit within a 305 day period, except where warranted as appropriate and necessary HIV services. It is important to recognize that the HIV Monitoring visit meets a critical, specific clinical need. The Department's evaluation will take into consideration that the HIV Monitoring limitation is a threshold, not a hard cap, and that exceeding the threshold is sometimes justified. It will additionally consider the impact of eliminating several of the hospital outpatient and clinic HIV Primary Care Program rate codes with the scheduled implementation of Ambulatory Patient Groups (APG) in December 2008 (hospital) and March 2009 (clinic).

Recommendation #3:

Continue efforts to resolve IPRO's technical difficulties with eMedNY.

Response #3:

The Department agrees and will continue its efforts to resolve these issues.