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OFFICE OF THE STATE COMPTROLLER

November 19, 2009

Richard F. Daines, M.D.
Commissioner
Department of Health
Corning Office Tower
Empire State Plaza
Albany, New York 12237

Re: Report 2009-F-35

Dear Dr. Daines:

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 (Department) to implement the recommendations contained in our audit report, *Duplicate Medicaid Payments for Outpatient Services* (Report 2006-S-73).

Background, Scope and Objective

Our initial audit report, which was issued on December 19, 2006, examined Medicaid claims submitted by providers of day habilitation, dialysis and methadone maintenance treatment services. Based on the results of the audit, we concluded that certain providers apparently billed Medicaid for duplicate claims totaling \$8.8 million during the five-year period ended August 31, 2006. These overpayments occurred because the Department's Medicaid claims processing system, eMedNY, did not have the necessary controls in place to detect and prevent them. The objective of our follow-up was to assess the extent of implementation, as of October 21, 2009, of the two recommendations included in our initial audit report.

To be reimbursed by Medicaid for their daily services, day habilitation providers are required to comply with the regulations of the Office of Mental Retardation and Developmental Disabilities (OMRDD) and provide at least four hours of various educational, vocational, and recreational activities to Medicaid recipients with developmental disabilities. Our audit identified \$6.4 million in duplicate claims for day habilitation services. In addition, Medicaid diagnostic and treatment centers are reimbursed all-inclusive monthly rates to provide dialysis services to Medicaid recipients. Our audit identified about \$2 million in duplicate claims for dialysis services. Also, certain Medicaid recipients receive methadone daily to treat their drug additions. Medicaid pays methadone providers all-inclusive weekly rates. Based on the results of our audit, we identified \$433,500 in apparent duplicate claims for methadone treatment services.

Summary Conclusions and Status of Audit Recommendations

Department officials made some progress in addressing the problems we identified in our initial report. However, additional actions still need to be taken to assess and recover certain duplicate payments. Of the two prior audit recommendations, one has been implemented, and the other has been partially implemented.

Follow-up Observations

Recommendation 1

Review the \$8.8 million duplicate payments we identified and recover overpayments where appropriate.

Status - Partially implemented

Agency Action - During the Department's investigation of duplicate Medicaid payments (totaling about \$6.4 million) for day habilitation services, OMRDD officials informed the Department that no official guidance for documenting and billing day habilitation services existed during our audit period. At that time, OMRDD's regulations did not explicitly permit or preclude the provision of multiple full-day (four-hour) habilitation services to a patient on the same day. Consequently, Department officials determined that multiple full-day services could be provided and claimed (during the period of our audit) if they were adequately documented. Officials further advised us that only Medicaid payments that day habilitation providers could not substantiate (due to the absence of service records and charts) were recoverable. Based on these determinations, the Department identified unsubstantiated day habilitation claim payments totaling \$297,700 and had recovered about \$174,000 of that amount at the time of our follow-up. Also, at the time of our follow-up, the Department was initiating actions to review the remaining \$2.4 million in apparent duplicate payments for dialysis and methadone maintenance services.

Recommendation 2

Implement eMedNY controls to prevent these types of duplicate payments from occurring.

Status - Implemented

Agency Action - In 2006, OMRDD issued an administrative memorandum prescribing new standards for billing and documenting day habilitation services. Pursuant to the revised guidance, OMRDD prohibited billing for multiple full-day habilitation services for one client on the same day, and consequently, the Department developed and implemented new eMedNY system edits to prevent payment of such claims. In that year, the Department also implemented edits to the eMedNY system to detect and prevent the payment of apparent duplicate claims for dialysis and methadone maintenance services.

Major contributors to this report were Warren Fitzgerald, Mary Roylance and Earl Vincent.

We would appreciate your response to this report within 30 days, indicating any actions planned to address the unresolved issues discussed in this report. We also thank the management and staff of the Department for the courtesies and cooperation extended to our auditor during this process.

Very truly yours,

Brian E. Mason
Audit Manager

cc: Mr. Stephen Abbott, Department of Health
Mr. Thomas Lukacs, Division of the Budget