

**NEW YORK**  
*state department of*  
**HEALTH**

Howard A. Zucker, M.D., J.D.  
Acting Commissioner of Health

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December 17, 2014

Mr. Brian Mason  
Assistant Comptroller  
Division of State Government Accountability  
NYS Office of the State Comptroller  
110 State Street, 10th Floor  
Albany, New York 12236

Dear Mr. Mason:

Pursuant to the provisions of Section 170 of New York State Executive Law, I hereby transmit to you a copy of the New York State Department of Health's comments related to the Office of the State Comptroller's final audit report 2013-S-57 entitled, "Overpayments to Managed Care Organizations and Hospitals for Low Birth Weight Newborns."

Please feel free to contact Amy Nickson, Acting Assistant Commissioner, Office of Governmental and External Affairs, at (518) 474-2011 with any questions.

Sincerely,



Howard A. Zucker, M.D., J.D.  
Acting Commissioner of Health

Enclosure

**Department of Health  
Comments on the  
Office of the State Comptroller's  
Final Audit Report 2013-S-57 entitled  
Overpayments to Managed Care Organizations and Hospitals for  
Low Birth Weight Newborns**

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The following are the Department of Health's (Department) comments in response to the Office of the State Comptroller's (OSC) Final Audit Report 2013-S-57 entitled, "Overpayments to Managed Care Organizations and Hospitals for Low Birth Weight Newborns."

**Background:**

New York State is a national leader in its oversight of the Medicaid Program. Through the efforts of the Department of Health (Department) and the Office of the Medicaid Inspector General (OMIG), over the last five years, New York State alone accounted for 54.9 percent of the national total of fraud, waste, and abuse recoveries. These results reflect a trend of increased productivity and enforcement. Over the last three calendar years, the administration's Medicaid enforcement efforts have recovered over \$1.73 billion, a 34 percent increase over the prior three-year period.

Under Governor Cuomo's leadership, the Medicaid Redesign Team (MRT) was created in 2011 to lower health care costs and improve quality care for its Medicaid members. Since 2011, Medicaid spending has remained under the Global Spending Cap, while at the same time providing health care coverage to an additional 840,000 fragile and low income New Yorkers. Additionally, Medicaid spending per recipient has decreased to \$7,929 in 2013, consistent with levels from a decade ago.

**Recommendation #1**

Review and recover the remaining overpayments, totaling about \$5.9 million, as identified by the audit.

**Response #1**

Of the original \$12.9 million in overpayments (129 claims) that the OSC identified, approximately \$8 million (78 claims) has been recovered to date. The OMIG is still in the process of recovering overpayments totaling \$300,000, for 3 claims. The remaining 48 claims identified as 'Submitted More Than One Year from Newborn's Birth Date' (totaling \$4.6 million) were not paid in error. The OMIG has reviewed 5 of the 48 claims, and determined they were paid appropriately. Based on the Department's guidance, and with no reason to suspect that these \$4.6 million claims were paid in error, simply because they failed the edit of late submission, there are no plans to review the remaining 43 claims.

### **Recommendation #2**

Review the \$949,681 in payments at high risk of not meeting the billing requirements for low birth weight kick claims and recover any overpayments.

### **Response #2**

The OMIG has issued draft reports to the Managed Care Plans requesting inpatient records to support the 10 claims totaling \$949,681. To date, \$495,043 has been recovered.

### **Recommendation #3**

Implement eMedNY system edits to properly process low birth weight kick claims. The edits should include controls to: ensure eMedNY only pays for claims for newborns weighing less than 1,200 grams (as opposed to equal to 1,200 grams); verify recipients' ages; and prevent duplicate fee-for-service and low birth weight kick payments.

### **Response #3**

The Department is aware of the discrepancy between the number of grams for kick payments (less than 1,200) and what the edit at the time of the audit allowed (less than or equal to 1,200). The Department has taken swift action to address this audit recommendation to ensure that all overpayments are recouped. A correction to the edit was forwarded to eMedNY and was implemented on November 6, 2014 that restricts the payment for newborns to those weighing less than 1,200 grams. The Department reviewed the list of 29 sample claims. For all but five, the providers either voided the low birth weight kick payment (rate code 2291) or had adjusted it to the standard newborn kick payment (rate code 2298). The remaining five claims are included in the claims provided to OMIG to evaluate and recover as appropriate.

### **Recommendation #4**

Actively monitor the appropriateness of low birth weight kick payments by routinely reviewing other Medicaid information (such as GME and encounter claim information) that can be used to verify the information on low birth weight kick claims. Routinely review low birth weight newborn claims for duplicate fee-for-service and low birth weight kick payments.

### **Response #4**

Plans who have rejected claims can submit documentation of the circumstances that prevented them from complying with the timeliness rules. The Department will review and make a determination as to whether the claim should be paid. Additionally, the OMIG, as part of its normal audit procedures, continues to review the appropriateness of low birth weight newborn supplemental capitation payments and duplicate fee-for-service claims