



Department of Health

ANDREW M. CUOMO
Governor

HOWARD A. ZUCKER, M.D., J.D.
Commissioner

SALLY DRESLIN, M.S., R.N.
Executive Deputy Commissioner

January 26, 2016

Ms. Andrea Inman, Audit Director
Office of the State Comptroller
Division of State Government Accountability
110 State Street – 11th Floor
Albany, New York 12236-0001

Dear Ms. Inman:

Enclosed are the Department of Health's comments on the Office of the State Comptroller's Follow-Up Audit Report 2015-F-24 entitled, "Suspicious and Fraudulent Medicaid Payments to Affiliated Brooklyn Dentists" (Follow Up to Report 2010-S-64).

Thank you for the opportunity to comment.

Sincerely,

A handwritten signature in cursive script, appearing to read "Sally Dreslin".

Sally Dreslin, M.S., R.N.
Executive Deputy Commissioner

Enclosure

cc: Michael J. Nazarko
Robert W. LoCicero, Esq.
Jason A. Helgersen
Dennis Rosen
Robert Loftus
James Cataldo
Ronald Farrell
Brian Kiernan
JoAnn Veith
Elizabeth Misa
Ralph Bielefeldt
Marci Natale
Diane Christensen
Lori Conway
OHIP Audit SM

**Department of Health
Comments on the
Office of the State Comptroller's
Follow-Up Audit Report 2015-F-24 entitled,
Suspicious and Fraudulent Medicaid Payments to Affiliated
Brooklyn Dentists (Report 2010-S-64)**

The following are the Department of Health's (Department) comments in response to the Office of the State Comptroller's (OSC) Follow-Up Audit Report 2015-F-24 entitled, "Suspicious and Fraudulent Medicaid Payments to Affiliated Brooklyn Dentists" (Report 2010-S-64).

Background:

New York State is a national leader in its oversight of the Medicaid Program. With the transition to care management, the Office of the Medicaid Inspector General (OMIG) continues to improve upon our processes and direct our resources to match this changing direction in the Medicaid program. In conjunction with the Department, NYS will continue its focus on achieving improvements to the Medicaid program and aggressively fighting fraud, waste and abuse wherever it exists.

Under Governor Cuomo's leadership, the Medicaid Redesign Team (MRT) was created in 2011 to lower health care costs and improve quality of 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 1,405,500 fragile and low income New Yorkers. Additionally, Medicaid spending per recipient has decreased to \$7,868 in 2014, consistent with levels from a decade ago.

Recommendation #1:

Determine if additional recoveries should be made of claim payments made to the other affiliated dentists involved in the activities described in this report.

Status - Partially Implemented

Agency Action - The Office of the Medicaid Inspector General (OMIG) investigates and recovers improper Medicaid payments on behalf of the Department. The OMIG is coordinating with the State Attorney General's Medicaid Fraud Control Unit (MFCU) and is awaiting the outcome of MFCU's ongoing investigation of the affiliated dentists before determining if additional recoveries of claim payments should be made. In the interim, the OMIG has reviewed the affiliated dentists' claim payments and, upon completion of the investigation, will make additional recoveries where appropriate.

Response #1

The Department confirms our agreement with this report.

Recommendation #2:

Determine whether the dentists should be allowed to continue to participate in the Medicaid program. The assessment should also address the propriety of referring the dentists to the State Education Department's Office of the Professions.

Status - Partially Implemented

Agency Action - Four of the six dentists have been removed from the Medicaid program. Of the four dentists:

- One was excluded from the Medicaid program because he pleaded guilty to health care fraud and his license to practice dentistry was surrendered;
- Two were terminated from the Medicaid program because their professional licenses expired; and
- One voluntarily withdrew from participating in the Medicaid program; however, at the time of our follow-up review, his license to practice dentistry was still registered with the State Education Department's Office of the Professions.

The remaining two dentists are still licensed to practice dentistry and can participate in the Medicaid program; however, the Department is withholding all payments to the two dentists. Once MFCU's investigation is completed, the Department will evaluate whether the two dentists should continue to participate in the Medicaid program and the propriety of referring the two dentists, as well as the dentist who voluntarily withdrew from the Medicaid program, to the State Education Department's Office of the Professions.

Response #2

The Department confirms our agreement with this report.

Recommendation #3:

Actively monitor the claims of the dentists identified in this report. Deny or pend claims for excessive numbers of services (particularly within certain time intervals).

Status - Implemented

Agency Action - Four of the dentists were removed from the Medicaid program and, therefore, they can no longer submit claims to Medicaid for payment. The remaining two dentists can submit claims to Medicaid; however, controls are in place to prevent the two dentists from receiving any payments. Since January 2013, the Department has withheld 91 claims representing \$3,052 in payments to one of the two dentists, and the remaining dentist has not submitted any claims to Medicaid.

Response #3:

The Department confirms our agreement with this report.

Recommendation #4:

Direct the dentists to cease improper recipient solicitation practices. Notify the dentists of the regulations that prohibit certain practices to solicit recipients.

Status - Implemented

Agency Action - In response to our recommendation, the OMIG conducted surveillance of the dentists' office locations and did not observe any further solicitation of recipients. Based on the results of the OMIG's surveillance activities, the subsequent removal of the four dentists from the Medicaid program, and the controls in place to monitor the remaining two dentists' claims (one of whom stopped submitting claims and the other who has only submitted 91 claims over the past three years), the Department determined the dentists do not need additional notification of the regulations prohibiting the solicitation of recipients.

Response #4:

The Department confirms our agreement with this report.

Recommendation #5:

Inspect the Broadway and Remsen office locations for unsanitary conditions and take appropriate actions.

Status - Implemented

Agency Action - OMIG officials conducted on-site inspections at the Broadway and Remsen office locations and determined that each location appeared to have several health and safety issues. Based on the results of these inspections, the OMIG consulted with the New York City Department of Health to determine the appropriate actions to take. Thereafter, the OMIG attempted to conduct follow-up inspections at the two locations; however, the Broadway office closed and the Remsen office no longer accepted Medicaid.

Response #5:

The Department confirms our agreement with this report.