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September 19, 2014

Marc Poloncarz, County Executive
Members of the County Legislature
Timothy B. Howard, County Sheriff
Erie County
Edward A. Rath County Office Building
95 Franklin Street, Room 1100
Buffalo, NY 14202

Report Number: S9-13-27

Dear Executive Poloncarz, Members of the County Legislature and Sheriff Howard:

A top priority of the Office of the State Comptroller is to help county officials manage their resources efficiently and effectively and, by so doing, provide accountability for tax dollars spent to support county operations. The Comptroller oversees the fiscal affairs of local governments statewide, as well as compliance with relevant statutes and observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations and County Legislature governance. Audits also can identify strategies to reduce costs and to strengthen controls intended to safeguard assets.

In accordance with these goals, we conducted an audit of eight counties throughout New York State. The objective of our audit was to determine whether counties are controlling inmate hospital costs and paying appropriate rates for the services provided. We included the County of Erie (County) in this audit. Within the scope of this audit, we examined the County's process for controlling inmate hospital costs for the period January 1, 2012 through December 31, 2012. Following is a report of our audit of the County. This audit was conducted pursuant to Article V, Section 1 of the State Constitution, and the State Comptroller's authority as set forth in Article 3 of the New York State General Municipal Law.

This report of examination letter contains our findings and recommendations specific to the County. We discussed the findings and recommendations with County officials and considered their comments, which appear in Appendix A, in preparing this report. County officials generally agreed with the findings and recommendations and indicated they planned to take corrective action. At the completion of our audit of the eight counties, we prepared a global report that summarizes the significant issues we identified at all of the counties audited.

Summary of Findings

While the County has taken steps to control outpatient inmate hospital costs and is seeking reimbursement of inpatient costs through federal financial participation (FFP), the County could improve its controls and monitoring of inpatient inmate hospital costs. The County does not verify that the rates billed agree with the established Medicaid diagnostic related group (DRG) rates for inpatient hospital services. Despite this control weakness, we found that hospitals underbilled the County by more than $107,197. While the County was underbilled for inpatient claims in 2012, the potential also exists for future overbillings to occur and go unnoticed. Positively, the County has negotiated to pay Medicaid rates and has outpatient hospital service contract rates with four specific vendors. In addition, the County does verify that the outpatient services billed agree with the New York State Department of Health (DOH)-established Medicaid rates. Finally, the County did submit claims for FFP reimbursement totaling $775,719 in 2012, with the County potentially receiving up to $387,859 in FFP reimbursements.

Background and Methodology

The County has a population of 919,086 and is governed by an 11-member County Legislature. The County's adopted budget totaled $1.5 billion in 2012. The County Sheriff (Sheriff) is responsible for the operation of the County's three correctional facilities (County jails). The County jails processed 15,986 inmates in 2012 and the average daily inmate population was 1,332. The budget for the County jails was approximately $94.3 million in fiscal year 2013.

County jail administrators must provide inmates with satisfactory health care and control medical care costs. Often, inmates are part of a socioeconomically depressed population and are more likely to have poor health histories due to limited access to health care. According to County officials, jail inmates suffer from a number of maladies – dental issues, mental illness, homelessness, substance abuse, violent behavior, human immunodeficiency virus (HIV), sexually transmitted diseases (STDs) and tuberculosis – at rates higher than the rest of the general population, thereby making cost containment difficult. Furthermore, upon incarceration, inmates usually lose their eligibility for private and public health insurance benefits, forcing the County to pay for their health care.

Inmate health care costs can be a heavy burden on a county's financial resources. Hospital costs make up a large percentage of total inmate health care costs. New York State Public Health Law requires counties to pay Medicaid DRG rates to hospitals for inmate inpatient services. Counties also have the opportunity to reduce the local share of inmate hospital costs by submitting Medicaid-eligible inpatient hospital claims to the federal government for up to 50 percent reimbursement. Accordingly, County social services districts are authorized by law to file claims for retroactive FFP reimbursement for the costs of certain inpatient medical services provided to inmates of correctional facilities. Figure 1 summarizes the County's inmate hospital costs for 2012.

Figure 1: 2012 Inmate Hospital Costs		
Type of Expenditure	**Amount**	**Percent of Total**
Inpatient	$1,176,767	72%
Outpatient	$465,787	28%
Total	**$1,642,554**	

There is no law that sets the amounts counties should pay for outpatient hospital services; however, county officials can negotiate rates with hospitals and providers to lower those costs.

To complete our objective, we interviewed County officials and reviewed policies and procedures. We also reviewed the inpatient/outpatient procurement process, the awarded hospital contracts, and negotiated rates and discounts to determine if the County is controlling inmate hospital costs and paying appropriate rates for services provided.

We conducted this performance audit in accordance with generally accepted government auditing standards (GAGAS). More information on such standards and the methodology used in performing this audit are included in Appendix B of this report.

Audit Results

Inpatient Hospital Costs – Good internal controls over inmate inpatient hospital costs include procedures to provide reasonable assurance that the rates billed are accurate. The County must verify that the inpatient hospital costs are supported and consistent with the Medicaid DRG rates. Effective procedures should include verifying the rates for each inpatient cost per the Medicaid DRG rates. Public Health Law requires counties to pay Medicaid DRG rates to hospitals for inmate inpatient services.

The Erie County Department of Health (ECDOH) has the primary duty of monitoring the inmate inpatient hospital costs. Prior to 2012 this process was the responsibility of the County Sheriff's Department. The supervising chief account clerk and two senior account clerks are in charge of verifying the rates on the claims with the various hospitals.

The County has no assurance that the inpatient hospital rates charged to the County are appropriate. The County does not confirm that the inpatient hospital rates billed the County match the DOH-established Medicaid DRG rates, but instead relies on the rates that the various hospitals dictate.

We reviewed all of the inpatient hospital claims and we determined that the hospitals charged the County less than the established Medicaid DRG rates on 136 inpatient claims and overcharged them on two claims, where they were charged the all patient refined DRG rates, resulting in a $107,197 underbilling to the County.[1] Verifying the accuracy of the hospital claims can be difficult due to the complicated hospital invoices and the complex calculations needed to determine the proper billing rates. The clerk who processes these claims does not have a list of the Medicaid

[1] We reviewed a total of 147 claims. Nine other claims were at a fixed rate and the rate was paid correctly.

DRG rates to confirm that the hospital is appropriately charging the County for inpatient hospital services, but relies on the hospital's billing department to inform her of the specific rates. While the County was underbilled for inpatient claims in 2012, the potential also exists for future overbillings to occur and go unnoticed.

Outpatient Hospital Costs – While there is no law that sets the amounts counties should pay for outpatient hospital services, it is still the responsibility of county officials to reduce costs wherever possible. For inmate outpatient hospital services, county officials can negotiate discounts and lower rates with hospitals and medical providers.

The ECDOH has the primary duty of monitoring inmate outpatient hospital costs. The County has negotiated to pay Medicaid rates and has outpatient hospital service contract rates with four of the vendors. These four negotiations were put in place prior to 2012 by County officials. Further, for these Medicaid rates and the negotiated contract rates, the County does verify that all the outpatient services rates billed agree with the DOH-established Medicaid rates or contract rates, respectively.

We tested seven outpatient medical service provider claims and determined that the County did pay the appropriate negotiated rates and Medicaid rate for each claim.

Federal Financial Participation (FFP) – Confinement in county correctional facilities, as public institutions, renders inmates ineligible for Medicaid services while incarcerated. However, Chapter 63 of the New York State Laws of 2001 authorizes county social services districts to file claims for retroactive FFP reimbursement for the costs of certain inpatient medical services provided to inmates of correctional facilities.

Subject to federal approval and the availability of FFP, county social services districts may claim reimbursement for inpatient medical services provided to inmates who are:

- Involuntarily confined or are residing in any correctional facility owned or operated by the New York City Department of Corrections;

- Involuntarily confined or residing in any correctional facility owned or operated by a county or other municipality within a social services district; or

- Confined or residing in a correctional facility operated under a contract with a county or a municipality other than a county.

The County has submitted claims for FFP reimbursement. The County could receive as much as $387,859 (50 percent of the $775,718 billed to the County for inmate inpatient services) in FFP reimbursement. Historically the County has been receiving 46 percent in FFP reimbursement.

Recommendations

1. The ECDOH should strengthen procedures for auditing inpatient hospital claims by providing employees with training on Medicaid DRG rates and how to perform the necessary calculations to audit inpatient hospital claims.

2. The ECDOH should ensure that the service rates charged to the County on inpatient claims are verified to be accurate and appropriate.

3. The ECDOH should continue negotiating with medical service providers to obtain discounted rates for outpatient services.

The County Legislature has the responsibility to initiate corrective action. A written corrective action plan (CAP) that addresses the findings and recommendations in this report should be prepared and forwarded to our office within 90 days, pursuant to Section 35 of the New York State General Municipal Law. For more information on preparing and filing your CAP, please refer to our brochure, *Responding to an OSC Audit Report*, which you received with the draft audit report. We encourage the County Legislature to make this plan available for public review in the Clerk of the Legislature's office.

We thank the officials and staff of the County for the courtesies and cooperation extended to our auditors during this audit.

Sincerely,

Gabriel F. Deyo

APPENDIX A

RESPONSE FROM COUNTY OFFICIALS

The County officials' response to this audit can be found on the following pages.

COUNTY OF ERIE

MARK C. POLONCARZ
COUNTY EXECUTIVE

GALE R. BURSTEIN, MD, MPH
COMMISSIONER OF HEALTH

September 30, 2013

Ann Singer, Chief of Statewide and Regional Projects
Office of the New York State Comptroller
State Office Building, Room 1702
44 Hawley Street
Binghamton, New York 13901

Re: Erie County Response to Controlling Inmate Hospital Cost Audit, Report Number S9-13-27

Dear Ms. Singer:

On behalf of Erie County, thank you for the opportunity to respond to the State Comptroller's ("OSC") draft Controlling Inmate Hospital Cost audit of Erie County, which was a part of your larger audit and analysis of eight counties.

The County was pleased to cooperate with OSC during your audit and to work with your professional audit staff. We are gratified that your audit findings confirm the high degree of professionalism and controls within the Erie County Department of Health's Correctional Health Division ("Correctional Health") for the one year period of review during 2012. The County is pleased that OSC confirmed that overall Correctional Health has taken the appropriate steps to control inmate hospital costs.

We were particularly satisfied that OSC complimented the County for several major factors, including: (1) our negotiations with providers to ensure we pay the Medicaid rate; (2) having outpatient hospital service contract rates with four vendors; (3) our verification process to ensure that billed outpatient services agree with New York State Department of Health ("NYSDoH) established Medicaid rates; and (4) our submission of claims for Federal Financial Participation reimbursement.

As we stated during the exit conference, we acknowledge and agree with your finding that Correctional Health can improve some controls on inmate hospital costs, specifically verification that billed healthcare rates correspond to the Medicaid Diagnostic Related Group rates ("DRG") for *inpatient* hospital services. Erie County staff has historically verified inpatient payment rates using the Erie County Medical Center Corporation's posted Medicaid rates, but not the NYSDoH posted DRG rates.

Through the efforts of your auditors, who confirmed the occasional difficulty of receiving information and answers from NYSDoH as well as the complex calculations needed to determine the

appropriate billing rates, we became aware of this discrepancy and we have immediately taken steps to employ the NYSDoH posted DRG inpatient rates. Further, Correctional Health has been actively seeking support and training from NYSDoH to better navigate and efficiently utilize the complex DRG system. We are striving to, and will continue this progress and process improvement.

In conclusion, we concur with your three recommendations and have already taken steps to strengthen procedures to ensure Correctional Health employs the NYSDoH Medicaid DRG rates.

Thank you again for your audit and the opportunity to hold an exit conference and to comment on the draft audit report.

Sincerely,

Gale R. Burstein, MD, MPH, FAAP
Erie County Commissioner of Health

GRB/bqs

cc: Erie County Executive Mark Poloncarz, Esquire

APPENDIX B

AUDIT METHODOLOGY AND STANDARDS

We reviewed the County's policies and procedures for controlling inmate hospital costs and paying appropriate rates for services provided. As part of this process, we reviewed the applicable hospital contracts, negotiated discounts and rates, and the procurement process for inmate inpatient/outpatient hospital services. We judgmentally selected a sample of hospital claims for the scope period[2] and tested for the accuracy of billing with Medicaid DRG rates, services provided, and other negotiated discounts and rates. We conducted detailed testing of inmate hospital costs, interviewed County and Sheriff's Department officials and reviewed other documentation related to the objective for the audit scope period.

We conducted this performance audit in accordance with GAGAS. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

[2] We selected our sample based on an unbiased judgmental process for the outpatient testing and we tested 100 percent for the inpatient testing.