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**New York State Office of the State Comptroller**  
Thomas P. DiNapoli

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Division of State Government Accountability

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# **Improper Payments to a Dentist**

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## **Medicaid Program Department of Health**

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Report 2012-S-52

July 2013

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## Executive Summary

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### Purpose

To determine if Medicaid made improper payments for dental claims submitted by Dr. Prosper Bonsi. The audit period was June 1, 2009 through September 30, 2012.

### Background

The Department of Health administers New York State's Medicaid program. The Department's Medicaid Dental Policy and Procedure Code Manual describes the services eligible for Medicaid reimbursement and the rules under which claims for eligible services will be paid. Medicaid allows a dentist to bill an additional fee when dental staff must provide additional time, skill, and/or assistance to properly treat patients. Such services are commonly referred to as "behavior management." Medicaid also allows a dentist to bill an additional fee for emergency treatment provided between the hours of 10:00 p.m. and 8:00 a.m. Payments for behavior management and services after normal business hours are in addition to the base fees for the treatments otherwise provided.

Prosper Bonsi, DMD, owns and operates Advanced Family Dentistry in Oneonta. In 2009, Dr. Bonsi enrolled in the Medicaid program. From June 1, 2009 through September 30, 2012, Medicaid paid Dr. Bonsi about \$593,000 for the claims he submitted. Many of these payments were for claims for behavior management and emergency treatments provided after normal office hours.

### Key Findings

- Medicaid paid Dr. Bonsi \$66,402 for 2,361 improper claims he submitted for behavior management, after-hours office visits and dentures that were not delivered to the recipients. The payments included:
  - \$52,866 for 1,825 improper claims for behavior management. The recipients in question were not eligible for behavior management services; and
  - \$11,766 for 533 improper claims for after-hours office visits. Most of the claims were for services that were provided during normal office hours.
- Medicaid had no computer system edits or manual controls to prevent payments of the improper claims for behavior management and after-hours office visits that we identified.

### Key Recommendations

- Recover the \$66,402 in improper payments made to Dr. Bonsi.
- Develop and implement Medicaid system edits or other controls to preclude payments for improper claims for behavior management and after-hours office visits.

### Other Related Audits/Reports of Interest

[Department of Health: Medicaid Payments for Dental Consultations \(2010-S-12\)](#)

[Department of Health: Medicaid Payments for Excessive Dental Services \(2009-S-46\)](#)

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**State of New York  
Office of the State Comptroller**

**Division of State Government Accountability**

July 15, 2013

Nirav R. Shah, M.D., M.P.H.  
Commissioner  
Department of Health  
Corning Office Building  
Empire State Plaza  
Albany, NY 12237

Dear Dr. Shah:

The Office of the State Comptroller is committed to helping State agencies, public authorities and local government agencies manage government resources efficiently and effectively and, by so doing, providing accountability for tax dollars spent to support government operations. The Comptroller oversees the fiscal affairs of State agencies, public authorities and local government agencies, as well as their compliance with relevant statutes and their observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations. Audits can also identify strategies for reducing costs and strengthening controls that are intended to safeguard assets.

Following is a report of our audit of the Medicaid Program entitled *Improper Payments to a Dentist*. This audit was performed pursuant to the State Comptroller's authority under Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law.

This audit's results and recommendations are resources for you to use in effectively managing your operations and in meeting the expectations of taxpayers. If you have any questions about this report, please feel free to contact us.

Respectfully submitted,

*Office of the State Comptroller  
Division of State Government Accountability*

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This report is also available on our website at: [www.osc.state.ny.us](http://www.osc.state.ny.us)

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## Background

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Medicaid is a federal, state and local government program that provides a wide range of medical services to those who are economically disadvantaged or have special health care needs. The federal government funds about 49 percent of New York's Medicaid costs, the State about 34.4 percent, and the localities (the City of New York and counties) the remaining 16.6 percent. For the year ended March 31, 2012, New York's Medicaid program had more than 5.5 million enrollees, and the program's claims costs totaled about \$50 billion. To receive federal matching funds, states' Medicaid programs are required to cover certain categories of services. States may also choose to cover optional services. Although under federal Medicaid requirements, dental services are considered optional services, New York's Medicaid program includes these services. For the year ended March 31, 2012, New York's Medicaid program paid dentists nearly \$400 million.

The Department of Health (Department) administers the Medicaid program in New York State. Medicaid claims are processed and paid by an automated system called eMedNY. When eMedNY processes claims, they are subject to various automated controls, or edits. The purpose of the edits is to determine whether the claims are eligible for reimbursement and if the amounts claimed for reimbursement are appropriate. Specifically, some edits verify the eligibility of the Medicaid recipient, other edits verify the eligibility of the medical service, and other edits verify the appropriateness of the amount billed for the service.

According to the American Dental Association's Current Dental Terminology (CDT), dentists can bill "*behavior management*" (CDT code D9920) for patients who are developmentally disabled or mentally ill. In these instances, dental staff often must provide additional time, skill, and/or assistance to such patients to render treatment properly. Fees for behavior management are in addition to the normal fees for specific dental procedures. Under New York's Medicaid program, providers are allowed to bill behavior management only for recipients who receive ongoing services from community programs operated or certified by the New York State Office for People with Developmental Disabilities (OPWDD).

Medicaid allows dentists to bill for an "*office visit after regularly scheduled hours*" (CDT code D9440) when emergency treatment is necessary. Such claims should be limited only to emergency treatments provided between the hours of 10:00 p.m. and 8:00 a.m. The fee for an office visit after regularly scheduled hours is paid in addition to the standard fee(s) for the treatments rendered. Further, Medicaid precludes dentists from claiming an after-hours visit when routine dental care (including evaluation, observation, consultation or follow-up service) is provided.

Prosper Bonsi, DMD, owns and operates Advanced Family Dentistry in Oneonta, New York. Dr. Bonsi enrolled in the Medicaid program in 2009. From June 1, 2009 through September 30, 2012, Medicaid paid Dr. Bonsi about \$593,000 for 10,700 claims for dental services he provided to 915 Medicaid recipients during this period. About 2,500 of Dr. Bonsi's claims were for behavior management and after-hours office visits.

## Audit Findings and Recommendations

For the period June 1, 2009 through September 30, 2012, Medicaid overpaid Dr. Bonsi \$66,402 for 2,361 claims that he submitted. The overpayments occurred because Dr. Bonsi submitted improper claims for behavior management services and services provided after normal business hours. Also, Dr. Bonsi billed for dentures that were not provided to recipients. The following table summarizes the number of improper claims and related payments made to Dr. Bonsi.

Type of Claim	Number of Improper Claims	\$ Amount of Related Payments
Behavior Management	1,825	\$52,866
After-Hours Office Visits	533	\$11,776
Dentures	3	\$1,760
<b>Totals</b>	<b>2,361</b>	<b>\$66,402</b>

### Behavior Management

In certain instances, dentists provide services to patients with various disabilities, and therefore, additional efforts are sometimes required to properly treat such patients. Behavior management includes the extra knowledge, skill, personnel and time that are often required to treat patients who are developmentally disabled. According to Medicaid rules, providers can submit claims for behavior management only when eMedNY assigns exception code 95 (OPWDD/Managed Care Exemption) or 81 (Traumatic Brain Injury Eligible) to a recipient. As noted previously, to obtain these designations, recipients must receive ongoing services from community programs operated or certified by the OPWDD.

From June 1, 2009 through September 30, 2012, Medicaid paid Dr. Bonsi \$58,637 (about \$29 per claim) for behavior management. Of that amount, Medicaid paid Dr. Bonsi \$52,866 for 1,825 improper claims for behavior management. The recipients in question were not eligible for behavior management, and as such, the claims lacked the required exception codes (81 or 95) to bill for these services. In one case, Dr. Bonsi billed behavior management for each member of a family of four people, although no family member was eligible for behavior management. Neither of the exception codes required for behavior management was posted to the eMedNY file for any member of this family.

Dr. Bonsi told us that he was unaware that Medicaid required recipients to have the exception codes on file (and posted to eMedNY) to bill for behavior management. As a result, he routinely billed for behavior management under a range of circumstances. For example, Dr. Bonsi billed for

behavior management if a patient became uncomfortable during a procedure, and as a result, he was unable to complete it.

At the time of our audit fieldwork, eMedNY had no system edits or manual controls to detect and/or prevent claim payments for behavior management for recipients who were ineligible for such services. In August 2012, the Department cancelled a proposed project to enable eMedNY to identify special needs recipients by their exception codes when processing claims and the related payments. According to Department officials, they initiated manual reviews of claims for behavior management, but abandoned those efforts due to staffing limitations and other priorities. However, as a result of our audit, the Department reinstated manual reviews of behavior management claims effective January 2013.

## After-Hours Office Visits

In addition to standard fees, Medicaid allows a dentist to bill an after-hours office visit when emergency treatment is provided between 10:00 p.m. and 8:00 a.m. However, Medicaid precludes claiming for after-hours visits when routine services, including follow-up services are provided. During our audit period, Medicaid paid \$20 or \$29 for an after-hours visit. We determined that Medicaid paid Dr. Bonsi \$11,776 for improper claims for after-hours office visits.

Specifically, Medicaid overpaid Dr. Bonsi \$9,656 for 427 claims in which he billed after-hours office visits when, in fact, regular or follow-up office visits (related to other prior services) took place. Generally, Medicaid fees for dental surgery cover follow-up visits. However, Dr. Bonsi frequently billed Medicaid for an after-hours office visit when he removed sutures from sites where he extracted teeth during a previous visit. Medicaid paid for this follow-up care when eMedNY processed Dr. Bonsi's initial claim for the procedure, and therefore, Dr. Bonsi should not have submitted a subsequent claim for the follow-up care. Moreover, there was no evidence that any of these services took place between 10 p.m. and 8 a.m.

In addition, Medicaid overpaid Dr. Bonsi \$2,120 for 106 other improper claims for after-hours visits. The 106 claims were for evaluation, observation, or consultation services, which are ineligible for separate after-hours charges. Department officials acknowledged eMedNY does not have edits to prevent payments of claims for after-hours office visits when routine services are provided. However, effective January 2013, the Department requires a manual review of all claims for after-hours office visits.

## Dentures

According to Medicaid rules, claims for dentures should not be submitted until the recipient receives the dentures. If claims for dentures are submitted before they are delivered to patients, Medicaid could pay for dentures an enrollee does not receive. During our audit period, Medicaid paid Dr. Bonsi \$93,920 for denture claims.

Generally, Dr. Bonsi billed for dentures when he took the impression of the recipient's mouth,

rather than when he provided the dentures to his patients. Although this practice is improper under Medicaid rules, there is no overpayment if the patient eventually receives the dentures. However, in two instances, enrollees did not receive their dentures. Thus, Medicaid overpaid Dr. Bonsi \$1,760 for these claims. In one instance, Dr. Bonsi took the impressions of a recipient's mouth for denture preparation and submitted a claim to Medicaid. While the dental laboratory was making the dentures, the recipient lost Medicaid eligibility and did not return to Dr. Bonsi to obtain them. As a result, Medicaid paid for the dentures although they were not provided to the recipient.

According to Dr. Bonsi, he incurs costs when he orders dentures from a laboratory. To avoid a loss if a patient does not return to complete a fitting, Dr. Bonsi routinely bills Medicaid for dentures when he takes an impression of the patient's mouth. Although Medicaid does not permit this practice, it does have provisions to reimburse providers in the event of "interrupted services" (i.e., when services are started, but not completed due to circumstances beyond a provider's control). Dr. Bonsi, however, was unaware of this provision.

As a result of our audit, the Department formally reminded Dr. Bonsi that he should not submit claims to Medicaid before the services in question are completed. The Department also advised Dr. Bonsi of the provisions for "interrupted services" in Medicaid's Dental Policy and Procedure Manual.

## Recommendations

1. Recover the \$66,402 in payments improperly claimed by Dr. Bonsi, as identified in this report.
2. Actively monitor claims submitted by Dr. Bonsi, particularly those for behavior management and after-hours office visits.
3. Develop and implement eMedNY system edits or other controls to preclude payments for improper claims for behavior management and after-hours office visits.

## Audit Scope and Methodology

The objectives of our audit were to determine whether Dr. Bonsi billed Medicaid according to the prescribed policies and guidelines and whether Medicaid made any inappropriate payments. Our audit scope included claims paid to Dr. Bonsi for services provided from June 1, 2009 through September 30, 2012.

To accomplish our objectives, we reviewed the Medicaid Dental Policy and Procedure Codes Manual. We met with Dr. Bonsi and reviewed a judgmental sample of 207 claims for 25 recipients. We also met with officials from the Department's Medicaid Dental Office and the Office of the Medicaid Inspector General's (OMIG's) Dental Unit. We shared the detailed results of our findings with Department and OMIG officials.

We conducted our performance audit in accordance with generally accepted government auditing standards. 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 objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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 (some of whom have minority voting rights) 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 functions do not affect our ability to conduct independent audits of program performance.

## Authority

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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

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We provided a draft copy of this report to Department officials for their review and formal comment. We considered the Department's comments in preparing this report and have included them in their entirety at the end of it. In their response, Department officials concurred with our recommendations and indicated that certain actions have been and will be taken to address them.

Within 90 days of the final release of this report, as required by Section 170 of the Executive Law, the Commissioner of Health 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 why.

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## Contributors to This Report

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## Division of State Government Accountability

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### Vision

A team of accountability experts respected for providing information that decision makers value.

### Mission

To improve government operations by conducting independent audits, reviews and evaluations of New York State and New York City taxpayer financed programs.

# Agency Comments

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

Nirav R. Shah, M.D., M.P.H.  
Commissioner

Sue Kelly  
Executive Deputy Commissioner

June 7, 2013

Mr. Brian E. Mason, Audit Director  
Office of the State Comptroller  
Division of State Government Accountability  
110 State Street - 11th Floor  
Albany, NY 12236-0001

Dear Mr. Mason:

Enclosed are the New York State Department of Health's comments regarding Office of the State Comptroller's Draft Audit Report 2012-S-52 entitled, "Improper Payments to a Dentist."

Thank you for the opportunity to comment.

Sincerely,

  
Sue Kelly  
Executive Deputy Commissioner

Enclosure

cc: Michael Nazarko  
Robert W. Locicero, Esq.  
James C. Cox  
Jason A. Helgerson  
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**Department Of Health  
Comments on the  
Office of the State Comptroller's  
Draft Audit Report 2012-S-52 Entitled,  
"Improper Payments to a Dentist"**

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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) Draft Audit Report 2012-S-52 entitled, "Improper Payments to a Dentist."

**Recommendation #1:**

Recover the \$66,402 in payments improperly claimed by Dr. Bonsi, as identified in the report.

**Response #1:**

The Office of the Medicaid Inspector General (OMIG) will review the identified claims and take action as warranted.

**Recommendation #2:**

Actively monitor claims submitted by Dr. Bonsi, particularly those for behavior management and after-hour office visits.

**Response #2:**

The Department has established several controls for all professional dental claims regarding procedure behavior management and after-hours office visits, including claims of this type submitted by Dr. Prosper Bonsi. Effective 01/15/13, all professional dental claims for after-hours visits (D9440) are pended for professional manual review and adjudication. Additional utilization review edit keys have been established to pend behavior management (D9920) claims for professional manual review for both conflicting claims history (effective 01/01/13) and unsupported claims history (effective 02/22/13). The Department also sent a letter to Dr. Bonsi reiterating the program requirement to follow the policies and procedures in the Dental Provider Manual. The Department and the OMIG will continue to monitor Dr. Bonsi's billing patterns and take appropriate action as necessary.

**Recommendation #3:**

Develop and implement eMedNY system edits or other controls to preclude payments for improper claims for behavior management and after-hours office visits.

**Response #3:**

Since the Department is utilizing existing editing capability to review professional dental claims for behavior management and after-hours office visits, no additional eMedNY development is required. Effective 01/15/13, all professional dental claims for after-hours visits (D9440) are pended for professional manual review and adjudication. Additional utilization review edit keys have been established to pend behavior management (D9920) claims for professional manual review for both conflicting claims history (effective 01/01/13) and unsupported claims history (effective 02/22/13).