

Department of Health

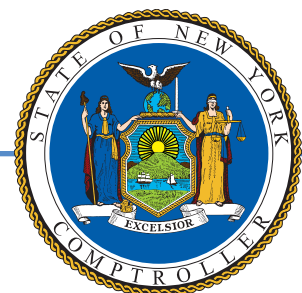
Medicaid Program: Improper Fee-for-Service Payments for Services Covered by Managed Long-Term Care Plans

Report 2018-S-65 | January 2020

OFFICE OF THE NEW YORK STATE COMPTROLLER

Thomas P. DiNapoli, State Comptroller

Division of State Government Accountability



Audit Highlights

Objective

The objective of this audit was to determine whether the Department of Health (Department) made improper fee-for-service (FFS) payments for certain services covered by managed long-term care (MLTC) plans. The audit covered the period January 1, 2014 through June 30, 2019.

About the Program

The Department administers New York's Medicaid program. Many of the State's Medicaid recipients are enrolled in MLTC plans. MLTC plans provide long-term care services, such as home health care, nursing home care, and durable medical equipment, to people who are chronically ill or disabled. Medicaid pays MLTC plans monthly managed care premiums and, in return, MLTC plans pay for all MLTC covered services. The Medicaid program should not pay claims on a FFS basis for services covered by MLTC plans. Individuals are enrolled in MLTC through either Local Departments of Social Services (Local Districts) or a contractor that operates a statewide enrollment center for public health insurance programs. Enrollment information is ultimately communicated to eMedNY, the Medicaid claims processing and payment system.

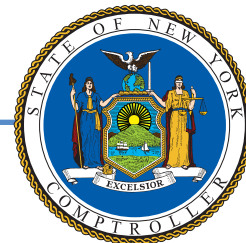
Key Findings

The audit identified \$16.4 million in improper Medicaid FFS payments for MLTC covered services. The improper payments resulted from the following:

- \$15.6 million was paid because eMedNY did not identify certain MLTC services as the responsibility of the MLTC plan.
- Over \$877,000 was paid because, at the time eMedNY adjudicated the claim, the recipient was not enrolled in MLTC, but was retroactively enrolled at a later date.

Key Recommendations

- Review the \$16.4 million in improper Medicaid FFS payments and make recoveries, as appropriate.
- Correct eMedNY MLTC benefit package information and system edits to prevent FFS payments for MLTC covered services.
- Work with Local Districts and develop a process to identify and recover improper Medicaid FFS payments for MLTC services resulting from retroactive enrollments.



Office of the New York State Comptroller Division of State Government Accountability

January 17, 2020

Howard A. Zucker, M.D., J.D.
Commissioner
Department of Health
Corning Tower
Empire State Plaza
Albany, NY 12237

Dear Dr. Zucker:

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 the 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 Fee-for-Service Payments for Services Covered by Managed Long-Term Care Plans*. 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.

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,

Division of State Government Accountability

Contents

Glossary of Terms	4
Background	5
Audit Findings and Recommendations	7
Incorrect eMedNY Edit and Benefit Package Configuration.....	7
Retroactive Enrollment	9
Recommendations.....	10
Audit Scope, Objective, and Methodology	11
Statutory Requirements	12
Authority.....	12
Reporting Requirements.....	12
Agency Comments	13
Contributors to Report	15

Glossary of Terms

Term	Description	Identifier
Benefit Package	Services that MLTC plans must cover and pay for	<i>Key Term</i>
Department	Department of Health	<i>Auditee</i>
eMedNY	Department's Medicaid claims processing system	<i>System</i>
FFS	Fee-for-Service	<i>Key Term</i>
FIDA	Fully Integrated Duals Advantage	<i>Plan Type</i>
HRA	New York City Human Resources Administration	<i>Agency</i>
Local Districts	Local Departments of Social Services	<i>Key Term</i>
MAP	Medicaid Advantage Plus	<i>Plan Type</i>
MLTC	Managed long-term care	<i>Key Term</i>
PACE	Program of All-Inclusive Care for the Elderly	<i>Plan Type</i>
Partial Capitation	Partial Capitation plan	<i>Plan Type</i>

Background

The New York State Medicaid program is a federal, state, and locally funded program that provides a wide range of health care services to individuals who are economically disadvantaged and/or have special health care needs. For the State fiscal year ended March 31, 2019, New York's Medicaid program had approximately 7.3 million recipients and Medicaid claim costs totaled about \$67.4 billion. The federal government funded about 56.5 percent of New York's Medicaid claim costs, and the State and localities (the City of New York and counties) funded the remaining 43.5 percent.

The Department of Health (Department) uses two methods to pay health care providers for Medicaid services: fee-for-service (FFS) and managed care. Under the FFS method, the Department, through its Medicaid claims processing and payment system (eMedNY), pays health care providers directly for services rendered to Medicaid recipients. Under the managed care method, the Department makes monthly premium payments to managed care plans for Medicaid recipients enrolled in their plans. In return, managed care plans arrange for the provision of health care services and reimburse providers for services provided to their enrollees.

The State's Medicaid program offers different types of managed care coverage depending upon individual eligibility. One type of coverage is managed long-term care (MLTC). MLTC provides long-term care services to people who are chronically ill or disabled and who wish to stay in their homes and communities. The Medicaid program offers four different MLTC plan types, including: Partial Capitation, Program of All-Inclusive Care for the Elderly (PACE), Medicaid Advantage Plus (MAP), and Fully Integrated Duals Advantage (FIDA). PACE, MAP, and FIDA are MLTC plans for individuals enrolled in Medicaid and Medicare. For the State fiscal year ended March 31, 2019, MLTC plans received \$14.2 billion in premium payments on behalf of 285,501 Medicaid recipients.

MLTC plans arrange and pay for a large array of health and social services, such as home health care, nursing home care, dentistry, vision care, and durable medical equipment. The Department created a model contract for each of the four plan types, which identifies the services plans must cover. The model contracts require the MLTC plans to pay for all covered services (collectively, these services are known as the benefit package) in exchange for monthly premium payments. However, some services are excluded (i.e., carved out) from benefit packages and may be paid separately by Medicaid FFS. Medicaid FFS claims are subject to various eMedNY payment controls that, for example, determine whether recipients are enrolled in a MLTC plan and will deny FFS claim payments unless the services are carved out from the recipient's MLTC benefit package. The carved-out services are controlled

by the scope of benefits information maintained in eMedNY. The Medicaid program should not pay claims on a FFS basis for MLTC plan covered services.

Individuals are enrolled in MLTC through either Local Departments of Social Services (Local Districts) or Maximus Inc., a contractor that operates a statewide enrollment center for public health insurance programs. Enrollment information is processed through the State's Welfare Management System and ultimately communicated to eMedNY.

Audit Findings and Recommendations

During the audit period, the Department made over \$16.4 million in improper Medicaid FFS payments for services that should have been covered by a recipient's MLTC plan. The majority of the improper payments occurred because the Department did not configure eMedNY system edits and MLTC benefit packages correctly (see Table 1). We also found improper FFS payments made during periods when recipients received retroactive coverage in a MLTC plan.

Table 1 – Reasons for Improper FFS Payments

Reason	Number of Claims	Medicaid Payments
Incorrect eMedNY system edit or MLTC benefit package configuration	143,658	\$15,564,968
Retroactive MLTC enrollment	5,751	\$877,719
Totals	149,409	\$16,442,687

During our audit fieldwork, the Department initiated a project to fix some of the problems we identified with the scope of benefits package configuration. According to Department officials, as part of this project, they also plan to review and update eMedNY system edits designed to prevent FFS payments for MLTC covered services. The Department should recover the improper payments we identified, as appropriate, and work with Local Districts to develop a process to identify and recover improper FFS payments for MLTC covered services during periods of retroactive enrollment.

Incorrect eMedNY Edit and Benefit Package Configuration

Each type of MLTC plan is assigned a benefit package that includes all the covered services defined in the corresponding MLTC plan model contract. Certain information used to describe benefit package services (e.g., procedure code, specialty code, reimbursement rate code, claim type, category of service) is maintained in eMedNY and used in conjunction with eMedNY system edits to prevent improper FFS payments for MLTC covered services. Our audit identified \$15.6 million in improper FFS payments that resulted from Department errors in configuring the eMedNY system edits and MLTC benefit packages.

For example, certain services provided in a diagnostic and treatment center are carved out of the Partial Capitation benefit package and can be paid through FFS. However, other services provided in diagnostic and treatment centers are covered, such as physical, occupational, and speech therapy; and audiology, nutrition, optometry, and podiatry services. We identified

78,762 claims totaling \$6.9 million in Medicaid payments for these types of services that were provided to MLTC enrollees in diagnostic and treatment centers. Department officials stated that the Partial Capitation benefit package was correctly coded in eMedNY to prevent FFS from paying such claims. However, officials explained that the eMedNY edit did not properly consider all the information in the benefit package and, as a result, failed to prevent the improper FFS payments.

We also found improper FFS payments were made because of errors in setting up the MLTC benefit packages in eMedNY. For example, only non-emergency transportation services are covered by Partial Capitation plans. The Department configured the benefit package for Partial Capitation to allow all ambulance services to be paid FFS; however, not all ambulance services are considered emergency. We analyzed ambulance claims billed without an emergency indicator and ambulance claims billed using a procedure code indicating the transportation was non-emergent, and found improper Medicaid payments totaling \$244,951.

Table 2 provides a breakdown of the audit findings related to errors in configuring eMedNY edits and benefit package information by plan and claim type.

Table 2 – Improper Payments by MLTC Plan Type

Claim Type	Partial Capitation		FIDA		PACE		MAP	
	Number of Claims	Paid Amount	Number of Claims	Paid Amount	Number of Claims	Paid Amount	Number of Claims	Paid Amount
Clinic	78,762	\$6,860,648	184	\$17,810	17	\$1,668	77	\$12,771
Nursing Home	40,814	4,939,166	43	44,648	140	114,126	158	51,239
Home Health Care	6,296	1,800,833	4,790	1,280,436	21	5,404	37	8,446
Transportation	5,068	300,535						
Practitioner	6,232	37,928						
Supply DME	782	29,452						
Dental	114	4,547						
Eye Care	95	1,811						
Inpatient			7	27,378	1	1,364	20	24,758
Totals	138,163	\$13,974,920	5,024	\$1,370,272	179	\$122,562	292	\$97,214

Department officials acknowledged that errors in configuring the eMedNY system edits and in setting up the MLTC benefit packages have led to improper payments. At the time of our audit, the MLTC benefit package and mainstream managed care benefit package shared the same global edit despite significant differences between the services covered by these different plans. During our audit fieldwork, the Department initiated a project to create a distinct global edit for MLTC, which will allow for more efficient and effective updates to MLTC benefit packages and reduce the likelihood of

errors. In addition, according to Department officials, the project will include a review and update of existing eMedNY system edits to correct issues that led to the types of improper payments our audit identified.

Retroactive Enrollment

Retroactive enrollment occurs when recipients are enrolled in a MLTC plan with an effective begin date in the past. When this occurs, MLTC plans receive premium payments to cover the months of retroactive coverage. FFS payments made during a period covered by retroactive enrollment may be improper if it is determined the services should have been covered by the MLTC plan (and the premium payments it received).

For example, one recipient included in our review was enrolled in a MLTC plan on May 7, 2019 with retroactive coverage for the period September 1, 2018 through April 30, 2019. The MLTC plan received \$35,080 in premiums for the eight months of retroactive coverage. However, Medicaid had already made \$33,953 in FFS payments for MLTC covered services during this period.

In total, our audit identified 5,751 FFS claims totaling \$877,719 in improper payments related to retroactive MLTC enrollment. There are multiple reasons retroactive MLTC coverage may be granted. For example, according to Department officials, due to the need for uninterrupted medical services by the recipient population that MLTC supports, Local District offices may request that MLTC plans continue to provide services when a recipient has lost eligibility due to late recertification or expiration of eligibility. Once the recipient's eligibility is restored, MLTC plans are then entitled to bill Medicaid for retroactive premium payments for the period of covered services. We visited New York City Human Resources Administration (HRA) and two Local Districts (Nassau County Department of Social Services and Suffolk County Department of Social Services) to discuss the steps taken when processing retroactive enrollment. We found that neither the Local Districts nor HRA have processes to identify FFS payments for services that may have been the responsibility of the MLTC plan during these retroactive enrollment periods. The Department should work with HRA and Local Districts to develop a process to identify and recover these improper payments.

Recommendations

1. Review the \$16.4 million in improper Medicaid FFS payments and make recoveries, as appropriate.
2. Correct eMedNY MLTC benefit package information and system edits to prevent FFS payments for MLTC covered services.
3. Work with Local Districts to develop a process to identify and recover improper Medicaid FFS payments for MLTC services resulting from retroactive enrollments.

Audit Scope, Objective, and Methodology

The objective of the audit was to determine if the Department made improper FFS payments for certain services covered by MLTC plans. The audit covered services provided between January 1, 2014 and June 30, 2019.

To achieve our audit objective and assess related internal controls, we interviewed officials from the Department, the Office of the Medicaid Inspector General, HRA, Nassau County Department of Social Services, and Suffolk County Department of Social Services. We used the Medicaid Data Warehouse and the eMedNY claims processing system to identify all FFS claims paid on behalf of recipients enrolled in MLTC. During the audit period, Medicaid made over \$2.5 billion in such payments. We worked with Department officials, examined the Department's relevant Medicaid policies and procedures, reviewed the MLTC model contracts, and researched documentation posted on the Department's website to identify services covered by MLTC plans. At the conclusion of the audit, we provided officials from the Department and the Office of the Medicaid Inspector General with details of our audit population.

Statutory Requirements

Authority

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.

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 objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

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 to certain boards, commissions, and public authorities, some of whom have minority voting rights. 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.

Reporting Requirements

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 the report. In their response, Department officials agreed with the audit recommendations and indicated the actions they will take to address them.

Within 180 days of the final release of this report, as required by Section 170 of the Executive Law, the Commissioner of the Department 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.

Agency Comments



**Department
of Health**

ANDREW M. CUOMO
Governor

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

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

December 23, 2019

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 Draft Audit Report **2018-S-65** entitled, "Improper Fee-for-Service Payments for Services Covered by Managed Long-Term Care Plans."

Thank you for the opportunity to comment.

Sincerely,

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

Enclosure

cc: Marybeth Hefner
Diane Christensen
Elizabeth Misa
Geza Hrazdina
Dan Duffy
James Dematteo
James Cataldo
Jeffrey Hammond
Jill Montag
Michael Spitz
OHIP Audit

**New York State Department of Health Comments on the
Office of the State Comptroller’s Draft Audit Report 2018-S-65 entitled
“Medicaid Program: Improper Fee-for-Service Payments for Services
Covered by Managed Long-Term Care Plans”**

The following are the New York State Department of Health’s (Department) comments in response to the Office of the State Comptroller’s (OSC) Draft Audit Report 2018-S-65 entitled, “Medicaid Program: Improper Fee-for-Service Payments for Services Covered by Managed Long-Term Care Plans.”

Recommendation #1:

Review the \$16.4 million in improper Medicaid FFS payments and make recoveries, as appropriate.

Response #1:

The Office of the Medicaid Inspector General will review the improper payments identified and pursue recovery of any payment determined to be inappropriate.

Recommendation #2:

Correct eMedNY MLTC benefit package information and system edits to prevent FFS payments for MLTC covered services.

Response #2:

The Department agrees that the eMedNY Managed Long-Term Care (MLTC) benefit package information and system edits need to be corrected to prevent Fee-for-Service (FFS) payments for MLTC covered services and is developing systems edits to ensure correct coding of MLTC covered services.

Recommendation #3:

Work with Local Districts to develop a process to identify and recover improper Medicaid FFS payments for MLTC services resulting from retroactive enrollments.

Response #3:

The Department will assist the Local Departments of Social Services in developing processes to identify and recover improper Medicaid FFS payments for MLTC services resulting from retroactive enrollments.

Contributors to Report

Executive Team

Tina Kim - *Deputy Comptroller*

Ken Shulman - *Assistant Comptroller*

Audit Team

Andrea Inman - *Audit Director*

Christopher Morris - *Audit Manager*

David Schaeffer - *Audit Supervisor*

Aissata Niangadou - *Examiner-in-Charge*

Jasbinder Singh - *Examiner-in-Charge*

Laura Singh - *Senior Examiner*

Andrea Majot - *Senior Editor*

Contact Information

(518) 474-3271

StateGovernmentAccountability@osc.ny.gov

Office of the New York State Comptroller
Division of State Government Accountability
110 State Street, 11th Floor
Albany, NY 12236



Like us on Facebook at facebook.com/nyscomptroller

Follow us on Twitter @nyscomptroller

For more audits or information, please visit: www.osc.state.ny.us/audits/index.htm