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OFFICE OF THE STATE COMPTROLLER

March 22, 2010

Richard F. Daines, M.D.
Commissioner
NYS Department of Health
Corning Tower Building
Empire State Plaza
Albany, NY 12237

Re: Report 2009-F-36

Dear Dr. Daines:

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 have followed up on the actions taken by officials of the Department of Health (Department) to implement the recommendations contained in our audit report, *Medicaid Fee for Service Payments for Managed Care Recipients* (Report 2007-S-100).

Background, Scope and Objectives

The Department uses two methods to pay Medicaid providers: the fee-for-service method or the managed care plan method. Under the fee-for-service method, a provider is paid for every Medicaid eligible service rendered to the recipient. Under the managed care plan method, a managed care plan receives a monthly payment for each Medicaid recipient enrolled in the plan. The managed care plan is responsible for ensuring enrollees have access to a comprehensive range of preventative primary and specialty services. Although managed care plans are responsible for providing most medical services to enrollees, there are services that are excluded from the plans and are paid separately through the fee-for-service program. For example, pharmacy fees are excluded from most managed care plans.

Our initial audit report, which was issued on May 16, 2008, determined if Medicaid inappropriately paid fee-for-service claims for recipients enrolled in Medicaid managed care plans. Our report found that, for the two-year period ended September 30, 2007, Medicaid inappropriately paid approximately \$3 million fee-for-service claims for recipients enrolled in three managed care plans. These inappropriate Medicaid payments occurred because the managed care enrollment information for the recipients was not updated timely. The objective of our follow-up was to assess the extent of implementation as March 2, 2010, of the three recommendations included in our initial report.

Summary Conclusions and Status of Audit Recommendations

We found that Department officials have made progress in correcting some of the problems we identified. However, additional improvement is needed. Of the three prior audit recommendations, two recommendations have been implemented, and one recommendation has been partially implemented.

In the original audit, we concluded that Medicaid inappropriately paid approximately \$3 million in fee-for-service claims for recipients enrolled in three managed care plans. These overpayments occurred because managed care information was not being updated timely. We recommended that the Department investigate and recover the inappropriate claims. In conducting their recovery efforts, the Office of the Medicaid Inspector General (OMIG) expanded the scope of the review to include more than two years and the three plans included in the original audit. By doing this, OMIG identified an additional \$24 million of inappropriate payments. As such, we now estimate \$27 million as the overpayment amount attributable to our audit findings.

Follow-up Observations

Recommendation 1

Investigate the approximately \$3 million in fee-for-service payments identified and recover inappropriate payments.

Status - Implemented

Agency Action - As a result of our original audit, OMIG officials have begun audits to identify and recover fee for service payments made on behalf of newborns that were retroactively enrolled in managed care. OMIG officials expanded the scope of their audits by more than the two years, and the three plans included in our original audit. The officials identified an additional \$24 million to add to the \$3 million in potential overpayments we identified, bringing the total to \$27 million in potential overpayments. As of February 2010, OMIG officials have finalized 70 audit reports, and have recovered \$1.6 million of inappropriate payments, including interest. Provider responses to another 24 draft reports with a combined total of approximately \$5.5 million in inappropriate payments are currently under review by OMIG officials. OMIG officials plan to issue audits of the remaining potential overpayments when recoveries identified in the first group of audits are complete.

Recommendation 2

Ensure managed care plan enrollment information is updated timely.

Status - Partially Implemented

Agency Action - The Department has established a workgroup comprised of Department staff, representatives of managed care plans, and the Greater New York Hospital Association,

to identify and evaluate opportunities for ensuring the timely update of managed care plan enrollment information. In the two years of this group's existence, members have met regularly and provided training on Medicaid coverage for newborns and hospital reporting requirements. The group has identified factors contributing to the lack of timeliness in updating this information, such as a lack of communication between the maternity office and the billing office in providing insurance information, which is contributing to the fee-for-service billing. However, Department officials did not indicate specific actions that were taken as a result of these meetings to help ensure that managed care plan enrollment information is updated timely.

Recommendation 3

Continue efforts to gain full hospital compliance with Medicaid regulations requiring the reporting of live births within five business days.

Status - Implemented

Agency Action - The Department now sends hospitals who either fail to report or incorrectly report the birth of a Medicaid eligible newborn a Notice of Deficiency letter. The letter indicates that there is a discrepancy in reporting of Medicaid information on a birth that occurred in the hospital, and asks the hospital to provide additional information to resolve the discrepancy. According to Department officials, these notices have already generated attention from hospitals and are expected to lessen the number of delays in enrolling newborns into their appropriate health care plan. In addition, in March 2008, the Department provided training addressing Medicaid newborn reporting requirements to a large group of hospital and health care agency staff.

Major contributors to this report were Karen Bogucki, Jessica Turner and Michael Sulem.

We would appreciate your response to this report within 30 days, indicating any actions planned to address the unresolved issue discussed in this report. We also thank the management and staff of the Department for the courtesies and cooperation extended to our auditors during this review.

Very truly yours,

Edward J. Durocher, CIA
Audit Manager

cc. Mr. Stephen Abbott, Department of Health
Mr. Thomas Lukacs, Division of the Budget